

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1942

No. 628

THE INTERSTATE COMMERCE COMMISSION, J. M.
KURN AND JOHN G. LONSDALE, TRUSTEES, ST.
LOUIS-SAN FRANCISCO RAILWAY COMPANY, ET AL.,
APPELLANTS

vs.

COLUMBUS AND GREENVILLE RAILWAY COMPANY

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

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1 In District Court of the United States for the Northern District of Mississippi, Eastern Division

Civil Docket No. 161

COLUMBUS AND GREENVILLE RAILWAY COMPANY, PLAINTIFF
v.

THE UNITED STATES OF AMERICA, ET AL., DEFENDANTS

*Original complaint**To the Honorable Judges of the District Court Aforesaid:*

Now comes the Columbus & Greenville Railway Company, a common carrier railroad corporation chartered, organized, and existing under and by virtue of the laws of the State of Mississippi, with its principal office situated in Columbus, Lowndes County, State of Mississippi, and within the Eastern Division of the Northern District of Mississippi, with its eastern terminus at Columbus and its western terminus at Greenville, all within the State of Mississippi, hereinafter referred to as Plaintiff, and complains of the United States of America, the St. Louis-San Francisco Railway Company (J. M. Kurn and John G. Lonsdale, Trustees), the Illinois Central Railroad Company and the Interstate Commerce Commission, hereinafter referred to as Defendants, and would, with respect, show unto the Court the following matters and facts, to wit:

1. That the Plaintiff, Columbus and Greenville Railway Company is a common carrier by rail, subject to the jurisdiction of the Interstate Commerce Commission under the provisions of the Transportation Act of 1920, as amended, in that said Railway Company is engaged in the transportation of goods moving in interstate commerce, and said Plaintiff has its home office and principal place of business situated in the City of Columbus, Lowndes County, State of Mississippi, within the Eastern Division of the Northern District of Mississippi, and said plaintiff is directly interested in and effected by an order of the Interstate

Commerce Commission entered on the third day of January

2 A. D. 1942, in Cause No. 28590, effective February 26, 1942, but by order of February 13, 1942, extended as to effective date until April 28, 1942, in that the said Columbus & Greenville Railway Company is the respondent named in said order.

2. That the defendant, Illinois Central Railroad Company is a corporation duly and legally chartered, organized, and existing under and by virtue of the laws of the State of Illinois, but authorized to do and doing business within the State of Mississippi, with officers and agents within said state upon whom service of

process may be had, and particularly in the Northern District of said State; that the St. Louis and San Francisco Railway Company (J. M. Kurn and John G. Lonsdale, Trustees), is a corporation duly and legally chartered, organized and existing under and by virtue of the laws of the State of _____, authorized to do and doing business in the State of Mississippi, and in the Northern District thereof; that the last-named corporation is being operated by J. M. Kurn and John G. Lonsdale, Trustees; that both of said railroad corporations are common carriers by rail, subject to the provisions of the Transportation Act of 1920, with amendments, and are directly interested in the order herein sought to be set aside, having become and been interveners before the Interstate Commerce Commission in the hearing and proceedings resulting in said order.

That the Interstate Commerce Commission and the United States of America are necessary and proper parties hereto under the provisions of Title 28 U. S. C. A., Sec. 41 Sub. 28 Judicial Code, Sec. 24 amended.

3. That this is a suit of which this court has venue and jurisdiction in this that it is brought to set aside in whole an order of the Interstate Commerce Commission, and to enjoin the enforcement of said order, and under the provisions of Title 28, U. S. C. A., Sections 41, et seq., the District Court is granted original jurisdiction of all suits brought to enjoin, set aside, annul, or suspend in whole or in part any order of the Interstate Commerce Com-

mission and the venue of said action relating to said orders
3 where, as here, the order relates to transportation and the charges therefor is within the jurisdictional district wherein in the domicile of the party, or any of the parties affected thereby.

The order complained of herein grew out of a proceeding before the Interstate Commerce Commission in Docket No. 28,590 thereof entitled "Cottonseed Allowances of the Columbus & Greenville Railway." On January 3, 1942, the Interstate Commerce Commission filed its report and order which are of record in the reports of the Interstate Commerce Commission in Vol. — at Page —, and said decision, findings of fact, report and order are set out in an exhibit hereto marked "A," to which reference is here prayed as often as may be necessary, and which exhibit is made a part hereof; that said order shown as a part of Exhibit "A" by its terms was to become effective on February 26, 1942, but upon petition of plaintiff herein an order was entered on February 13, 1942, extending the effective date of said original order to April 28, 1942, and said extension order is made Exhibit "B," copy thereof is attached hereto and asked to be considered and made a part hereof. That said order of January 3, 1942, effective as

extended on April 28, 1942, is the order herein sought to be restrained, enjoined, set aside, annulled and suspended.

4. That jurisdiction of this court depends upon subdivision 28 of Section 41, and Sections 43 and 45 to 48, both inclusive, of Title No. 28 of the United States Code, which provide for actions herein to enjoin, set aside, annul or suspend in whole or in part, any order of the Interstate Commerce Commission, and upon the further fact that this action arises under the Constitution and Laws of the United States of America, and that said action is brought to restrain, enjoin, set aside, and annul an order of the Interstate Commerce Commission.

5. Plaintiff would show that heretofore, after a report, order, and citation of Division 3 of the Interstate Commerce Commission

wherein plaintiff was cited to show cause by formal return
4 why its tariff No. 9 (b), I. C. C. No. 83 should not be amended so as to eliminate provisions contained therein under which the plaintiff was said to agree to make refunds to shippers of outbound traffic of cottonseed products from the mill point to which the inbound traffic of cottonseed had moved over the line of a common carrier by rail other than the plaintiff, which citation was made in investigation and Suspension Docket No. 4599 "Allowances on Cottonseed at C. & G. Ry. Points" reported in 238 I. C. C., 309. An investigation was instituted by the Interstate Commerce Commission upon its own motion. The investigation was docketed as No. 28,590 of the Interstate Commerce Commission, and the inquiry was made into and concerning the lawfulness of the rates, charges, rules, regulations, and practices published in the Columbus & Greenville Railway Company's freight tariff No. 9 (b), I. C. C. No. 81, which provided for adjustments, sometimes called "cut-backs" to shippers of outbound cottonseed products from manufacturing or mill points on the line of the Columbus and Greenville Railway Company in instances where the inbound shipment of cottonseed moved into the mill point over the lines of other rail carriers.

The tariff in question, Exhibit "C" hereto and made a part hereof, provides for the equalization of its outbound rates with those of plaintiff's intervening trunkline competitors. The tariff provision does not affect the amount of rates paid for the inbound movement of cottonseed to the mill point. Its effect is to reduce the outbound rate on cottonseed products to meet a competitive condition created by so-called "cut-back" rates of trunk line competitors, which "cut-back" rates tend to hold the outbound movement of cottonseed products from mill points to the lines of said competitors. The facts with reference to a typical movement is quoted in Exhibit "A" at pages 4 and 5 thereof.

The "cut-back" tariffs referred to are shown by Illinois Central Tariff No. —, Exhibit "D" hereto, and Frisco Tariff No. —, Exhibit "E" hereto, both of which are asked to be made and considered a part hereof.

6. The plaintiff contends and avers that to permit
5 the order of January 3, 1942, effective April 28, 1942, to go
into effect and to thereby cancel and condemn plaintiff's
Tariff I. C. C. No. 81 will be to deprive the Plaintiff of its property
without due process of law, contrary to the provisions of Article
5 of the Amendments to the Constitution of the United States in
this that to permit its competitors to enjoy the privilege of holding
the total movement to their lines by the use of "cut-back" rates
while at the same time denying the plaintiff the right to charge
equal rates, thereby giving to its competitors unequal advantage,
the Commission has confiscated in an irreparable manner the
property rights of the plaintiff, and has given an undue prefer-
ence to the trunk line competitors, and the decision of the Com-
mission, as stated by Commissioner Splawn in his dissent "violates
all principles of justness and fairness" in that it precludes the
plaintiff from participating in the outbound movement of cotton-
seed products and in the through movement of the traffic on cot-
tonseed and cottonseed products from common origins on an
equality of rates with the competing trunkline railroads, thereby
depriving the Plaintiff of its property in violation of the provi-
sions of the Fifth Amendment.

7. That if said order of January 3, 1942, effective April 28,
1942, is permitted to go into effect, then the plaintiff will suffer
immediate and irreparable damage for which it has no plain,
adequate, complete, effective, and efficient remedy at law, and that
injunctive relief is the only effective and adequate remedy that
will fully protect the Plaintiff:

Wherefore, premises considered, Plaintiff prays that upon the
filing of this petition, and in accord with Title 28, Sec. 47 of the
U. S. Code, a Three-Judge Court be assembled and a hearing be
had at the earliest possible date to the end that irreparable damage
may be prevented; that notice hereof be served upon the United
States of America upon the Interstate Commerce Commission,
upon the Illinois Central Railroad Company, and upon the St.
Louis & San Francisco Railroad Company (J. M. Kurn and John

G. Lonsdale, Trustees) in the manner and for the time
6 required by law, and that all necessary writs and process
issue therefor commanding the Defendants upon a certain
date to appear and plead hereto, by the granting of the relief
prayed; that the Court temporarily stay and suspend the enforce-
ment, operation, and execution of the order entered in said Docket
No. 28,590; that an interlocutory and temporary restraining order

suspending and restraining the operation, enforcement, and execution of said order be issued, and that upon final hearing that this court permanently enjoin, suspend, set aside, and annul the said order of the Interstate Commerce Commission in Cause No. 28,590 of January 3, 1942, effective April 28, 1942; that this court take such other order or orders and grant to the Plaintiff such other, further, special, and general relief as in equity and good conscience plaintiff is entitled to have and receive; and as it will ever pray, etc.

Respectfully,

COLUMBUS AND GREENVILLE RAILWAY COMPANY,
By (s) R. C. STOVALL,

President and General Counsel.

(s) FORREST B. JACKSON,
Of Counsel.

[*Duly sworn to by Forrest B. Jackson; jurat omitted in printing.*]

7

Exhibit A to complaint

INTERSTATE COMMERCE COMMISSION

No. 28590

COTTONSEED ALLOWANCES OF COLUMBUS & GREENVILLE RY. CO.

Submitted November 12, 1941.—Decided January 3, 1942

Refunds through claim channels by the Columbus & Greenville Railway Company to shippers who use its line for the out-bound movement of cottonseed products, manufactured from cottonseed moving into mill points by lines of other rail carriers, found unlawful. Schedules providing for the refund, or cut-back, ordered canceled. Former report, 238, I. C. C. 309.

R. C. Stovall and Forrest B. Jackson for respondent.

M. G. Roberts, William W. Dalton, Harold E. Spencer, Nathan S. Sherman, and Alvin J. Bauman for interveners.

REPORT OF THE COMMISSION

MAHAFFIE, Commissioner:

After report, order, and citation¹ of division 3 in Investigation and Suspension Docket No. 4599, Allowances on Cottonseed at

¹ The order of division 3 cited respondent to show cause by formal return why its tariff No. 9-B, I. C. C. No. 81, should not be amended so as to eliminate provisions contained therein under which respondent agrees to make refunds to shippers of out-bound traffic from the mill point in instances where the in-bound traffic has moved over the line of a carrier other than respondent.

C. & G. Ry. Points, 238 I. C. C. 309, this investigation was instituted upon our own motion into and concerning the lawfulness of the rates, charges, rules, regulations and practices, published in Columbus & Greenville Railway Company's freight tariff No. 9-B, I. C. C. No. 81, providing refunds, sometimes called "cut-back," to shippers of out-bound cottonseed products from manufacturing or mill points on its line in instances where the in-bound shipments of cottonseed moved into the mill points over the lines of other rail carriers. Exceptions to the proposed report of the examiner were filed by respondent, replies thereto were made by interveners and the issues have been orally argued.

8 In the former proceeding, division 3 found unlawful respondent's freight tariff No. 9-C, I. C. C. No. 83, providing substantially the same refund or cut-back as published in tariff I. C. C. No. 81, which proposed to supersede and cancel the latter tariff. This investigation has afforded respondent a full hearing as to the lawfulness of tariff I. C. C. No. 81.

It was stipulated by the parties that the record and findings of fact in the prior proceeding, 238 I. C. C. 309, by reference, be made a part of the record herein, to be supplemented by any documentary evidence and oral testimony that the parties desired to present with the provision that the findings of fact in the prior report were not to be considered conclusive in this proceeding.

The principal difference between tariff I. C. C. No. 81, here in issue, and I. C. C. No. 83 ordered canceled by division 3 is in form, or choice of words used in the two publications. Tariff I. C. C. No. 81 does not use the term "allowances" but refers to "rates." There is no difference in substance and effect of the tariffs. Each of them provide a cut-back to the shipper of outbound cottonseed products from the mill point upon the surrender of inbound freight bills of other carriers for the transportation of cottonseed from origin to the mill point in settlement of claims.

Excerpts from tariff I. C. C. No. 81, which purports to publish rates and rules governing transit privileges on cottonseed, carloads, at Columbus, Greenville, Greenwood, Indianola, Moorhead, and West Point, Miss., are as follows:

"Item 5 (a) provides that the rates and rules published therein will apply on cottonseed, in carloads, from stations on the Columbus & Greenville Railway, or on cottonseed, in carloads, received from connecting lines at Columbus & Greenville Railway junction points with such lines to the named manufacturing or mill points for cracking, crushing, etc., and the subsequent shipment of the product, as described in Item 10, from such points via the Columbus & Greenville Railway.

9 "Item 5 (b) provides that the rates will also apply on cottonseed, in carloads, from stations on connecting lines

and moving via such lines to the above-mentioned manufacturing or mill points on the Columbus and Greenville Railway, when the products of cottonseed as described in Item 10 are subsequently shipped in carloads, or less than carload quantities, from such manufacturing or mill points via the Columbus & Greenville Railway.

"Item 5 (c) provides that the rates published in the tariff may not be used in waybilling shipments, and that all shipments must be waybilled at the full local or joint rates lawfully applicable to the manufacturing or mill point proper in effect on date of shipment from the point of origin.

"Item 5 (d) provides that upon evidence of the shipment of the product, in carloads, or less than carload quantities, over the Columbus & Greenville Railway at full published tariff rates applying from the manufacturing or mill point, the freight charges on cottonseed to the manufacturing or mill point will be reduced to the basis of rates shown in Item 40 through freight claim channels.

"Item 40 sets forth a mileage scale of rates designated to apply on cottonseed, carloads, minimum 30,000 pounds. The rates in this item are applied on the basis that for every 100 pounds of weight represented by in-bound freight bills on cottonseed, surrendered for refund, there must be furnished evidence of shipment from the manufacturing or mill point of 93 pounds of cottonseed products. When in-bound bills are surrendered at this ratio, the rates in Item 40 are applied to 93 percent of the weight of the cottonseed.

"Item 25 provides that in the event changes are made in the rates and rules published in this tariff after the cottonseed is shipped from point of origin, the rates and rules in effect on date of the shipment from point of origin or mill point will apply."

Briefly stated, the justification offered by respondent for its tariff I. C. C. No. 81 is that the tariff is primarily a local tariff publishing rates and rules governing transit privileges on cottonseed, in carloads, at mill points on its line; that the tariff applies locally from all points on its railroad to all mill points located thereon; that the transit privilege incorporated in the tariff by adjustment through claim channels, equalizes the net charge to the shipper for the total haul of the cottonseed and products thereof with charges resulting from the application of cut-back rates in tariffs of the connecting lines, including the protestants, at common mill points; that tariff I. C. C. No. 81 grants a privilege at

the expense of respondent, and that the privilege is granted 10 solely for the purpose of equalizing the net transportation cost to the shipper of the product from mill point to destina-

tion; that the tariff publishes no rates for application on the in-bound movements; that the rates for the in-bound movements of cottonseed are published in tariffs, local or joint, governing the movement to the mill point; likewise, the rates on cottonseed products from the mill point are published in tariffs, local or joint, governing the movement from the mill point; that the tariff here in issue is only a means to equalize the rates applicable to the movement of cottonseed to mill points therein named and the movement of the products manufactured therefrom to destinations over routes of respondent and its connecting lines with the rates over the routes of competing carriers; and that the resultant rates under the tariff here in issue on the movement of the seed to the mill, the movement of the product therefrom, or the aggregate of both, are identical with those available over competing carriers.

The following excerpt from the record illustrates the application of the tariff:

"* * * Take a shipment of cottonseed from Coahoma, Miss., a point on the Y. & M. V. Railroad, to Greenville, a distance of 87 miles. On the initial movement to Greenville the rate is 8.4 cents per 100 pounds. That rate is assessed and collected when the seed moves to Greenville. It is not the rate published in respondent's cut-back tariff, nor in the cut-back tariff of the Y. & M. V. Railroad. It is, however, the local rate of the Y. & M. V. Railroad as published in its tariff lawfully on file with the Interstate Commerce Commission. When the cottonseed oil is reshipped by the Columbus & Greenville Railway, a rate of 48 cents per 100 pounds, which is the full joint rate by way of the respondent and its connections from Greenville to Cincinnati, is assessed and collected and subsequently, and within 15 months from the date of issue of the bill of lading, the shipper files his claim for the privileges granted under the tariff in question (L. C. C. No. 81). This respondent will refund the shipper to basis of rate set forth in its tariff for 87 miles, or 7 cents. * * * The net cost would be, then, 7 cents to Greenville, plus 48 cents beyond, or a total of 55 cents per 100 pounds.

"Q. Mr. Hawkins, assuming that the product from the seed in the example given had moved from the mill point, Greenville, Miss., to Cincinnati, Ohio, by way of the Y. & M. V. Railroad, a connecting and competing carrier at that point with the C. & G., what would have been the net cost to the shipper for the through movement?

"A. The net cost would have been exactly the same. The mechanics of the tariff would have been the same. This is, that line would have assessed a rate of 8.4 cents on the initial movement; then upon reshipment that line would have assessed the same rate, that is, 48 cents; then subsequently, and

* within 15 months, it would have, upon presentation of claim, re-adjusted through claim channel the charges to the basis that would apply if the shipment moved over respondent's line. In other words, the net cost to the shipper is the same, however it moves.

"Q. Now, on your illustration there from Coahoma to Greenville * * * what carrier would collect the local rate?

"A. The Y. & M. V. Railroad.

"Q. And if that shipment were moved from Greenville, or the products of the seed shipped from Greenville to Memphis via the Columbus & Greenville Railroad, how would the charges be refunded by the Columbus & Greenville?

"A. Just like they are by the Y. & M. V., upon evidence of re-shipment and upon presentation of claim we would refund the shipper the difference between the 8.4 cent rate from Coahoma to Greenville and the cut-back rate of 7 cents, or 1.4 cents, which would allow the Y. & M. V. its full local rate into Greenville and, additionally, will allow them full representation and participation in the movement from Greenville to Memphis, the illustration you used.

"Q. Now as I understand it, the Y. & M. V. are paid their full local. If the shipment moves from Greenville by the Y. & M. V. they reduce their local rate down to the cut-back, and their tariff similar to the C. & G. tariff, do they not?

"A. You can call it anything you want to. They refund the shipper the difference between 8.4 cents paid to the mill point and a fictional rate of 7 cents.

"Q. What do you mean by a fictional rate?

"A. I mean it has no application other than a basis for refunding the inbound rate to a lower basis."

Respondent is not a party to the inbound rates on cottonseed from points on the lines of its connecting rail carriers to the named mill points on its line, and no other carrier is a party to its tariff I. C. C. No. 81. The refunds, or cut-back, are exactly the same in amount as those of the other carriers serving the mill points. The difference between the practice of respondent and those of the other carriers is that it makes an allowance on seed that does not originate on its own line, and absorbs the allowances so made out of its proportion of the outbound rates to which it is a party. The purpose of making the refund is to enable it to compete for traffic that might otherwise move outbound over the lines that originated the seed. The originating lines hold themselves out to cut-back their local inbound rates on the seed which they originate in order to induce the shipper to move the outbound products over their lines. If it were not for the cut-back rates of the connecting lines, there would be no necessity for respondent's tariff as the inbound

shipments move from origin points to the mills at the local rates, under separate bills of lading.

12 The reason given by respondent for the opposition to its cut-back tariff by interveners is that it will interfere with their practice of recapturing the outbound traffic from the mill points by means of their cut-back rates on the inbound cottonseed. Respondent contends that it has the right to offer the same concession as interveners, on the ground that the inbound carrier of the cottonseed to the mill point has no inherent or vested right to the outbound haul of the products manufactured from the seed, citing Atchison, T. & S. F. Ry. Co. v. United States, 279 U. S. 768. The court, among other things, said:

"This convenient fiction is employed as a justification for the discrimination involved in giving rates lower than those ordinarily applicable to the service outbound. * * * There is no rule of law or practice which gives a carrier the right to recapture traffic which it originated."

Interveners emphasize a distinction in that the tariff of respondent attempts to name rates for account of their lines without their concurrence, whereas their tariffs apply solely on shipments of cottonseed which they transport over their lines to the mill point. The legality of interveners' tariffs is not in issue; however, this is an important difference between the application of the respective tariffs. On the question of equality of the rates raised in the former proceeding, division 3 said:

"Instead of placing itself on an equal basis with its competitors, respondent's present effective and suspended tariffs place it in a more favorable position than any of them, since the tariffs of none of them go so far as to grant a refund to the shipper on traffic moving into the mill over the line of another carrier."

Section 6 of the Interstate Commerce Act provides that every common carrier shall publish tariffs showing the charges for transportation between different points on its own line and between points on its own line and points on the line of any other carrier. Where no joint rate over the through route has been established, as in this case, the several carriers in such through route are required to file the separately established rates applicable to the through transportation. The form and manner in which respondent's tariff is published clearly does not conform to the requirements of section 6 (1) and (4) of the act. The refunding of

13 a portion of the rate published and applied by another carrier in the form and manner as that employed by respondent is a practice made unlawful by section 1 (6) of the act.

Respondent provides the same cut-back for cottonseed originating on its line which it brings into the mill points as do the

other carriers serving those points. No objection is made to that practice. Respondent originates some 15 or 20 percent of the cottonseed milled at the junction points. Some 50 percent of the inbound seed is brought into the mill points by truck. This leaves some 30 or 35 percent of the total traffic possibly subject to respondent's cut-back on traffic originating on other lines. No provision is made for refund to shippers on that portion of the traffic brought into the mill points by truck. Upon oral argument it was admitted that respondent had not undertaken the establishment of through routes with joint rates or to accomplish the end desired by proportional rates through procedure authorized by the statute.

We find that to the extent respondent's tariff I. C. C. No. 81 provides for refund, or cut-back, to the shipper on traffic originated and hauled to the mill points by other rail carriers, it is unlawful in violation of section 1 (6), section 6 (4), and section 6 (7) of the Interstate Commerce Act.

An appropriate order will be entered.

SPLAWN, Commissioner, Dissenting:

Respondent's tariff accomplishes, by a so-called refund provision an equalization of its outbound rates with those of its intervening trunk-line competitors. This tariff provision in no wise affects the amount of the rates paid for the inbound service to the mill point. Its only effect is to reduce the outbound rate and thus make applicable the same rate as applies when the outbound haul is performed entirely by the trunk lines.

The outbound traffic is "free" traffic in the sense that terms was applied to the grain by the Supreme Court in Atchison, T. & S. F. Ry. Co. v. United States, 279 U. S. 768. In other words, it is traffic which has previously moved in on local or joint rates 14 to the milling point and has there come to rest. Hence the fact that "respondent is not a party to the inbound rates on cottonseed * * * to the named mill points" is without legal significance.

This report also relies on two additional facts. These are that no other carrier is a party to respondent's tariff containing the provision in question and that respondent absorbs the allowances made out of its proportion of the out-bound rate to which it is a party. The identical facts are true of the tariffs and practice of at least one of the intervening trunk lines.

The report concludes that if it were not for those tariffs there would be no necessity for respondent's tariff, but dismisses the matter by stating that "the legality of interveners' tariffs is not in issue."

Certainly there can be no doubt that the provision is lawful as to outbound traffic to points reached by respondent over its line

and counsel for the trunk lines agrees that it is. But even here the report makes no distinction in its sweeping condemnation of respondent's tariff.

The report finds that refunding of a portion of the published rate of respondent "is a practice made unlawful by section 1 (6)." That section does not declare unlawful the so-called practice but condemns "unjust and unreasonable practices * * * affecting rates * * *." No finding of unreasonableness is made in this connection. Nor does the report indicate wherein the provision in issue violates section 6 (1) and (4).

The effect of the decision violates all principles of justness and fairness as it precludes respondent from participating in the out-bound movement or in the through movement of the traffic from common origins on an equality of rates with the trunk lines.

Commissioner Rooms was necessarily absent and did not participate in the disposition of this proceeding.

15

ORDER

At a General Session of the Interstate Commerce Commission held at its office in Washington, D. C., on the 3rd day of January, A. D. 1942.

No. 28590

COTTONSEED ALLOWANCES OF COLUMBUS & GREENVILLE RY. CO.

It appearing, That by order dated November 15, 1940, the Commission, upon its own motion, entered upon an investigation into and concerning the lawfulness of the rates, charges, rules, regulations and practices, as published in Columbus and Greenville Railway Company's Freight Tariff No. 9-B, I. C. C. No. 81;

It further appearing, That full investigation of the matters and things involved has been made, and that the Commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof, and has found said tariff unlawful to the extent it provides for refund, or cut-back, to the shipper on traffic originated and hauled to the mill points by other rail carriers:

It is ordered, That respondent be, and it is hereby, notified and required to cancel such unlawful provisions of said tariff on or before February 26, 1942, upon notice to this Comission and to the general public by not less than one day's filing and posting in the manner prescribed in section 6 of the interstate commerce act.

By the Commission.

[SEAL]

W. P. BARTEL, *Secretary.*

Exhibit "B." to complaint

ORDER

INTERSTATE COMMERCE COMMISSION

No. 28590

COTTONSEED ALLOWANCES OF COLUMBUS & GREENVILLE RY. CO.

In the Matter of Respondent's Request for Postponement of the Effective Date of the Order

Present: Charles D. Mahaffie, Commissioner, to whom the above-entitled matter has been assigned for action thereon.

Upon further consideration of the record in the above-entitled proceeding, and upon consideration of request of respondents for postponement of the effective date of the order:

It is ordered, That the order entered in the above-entitled proceeding on January 3, 1942, which was by its terms made effective on February 26, 1942, upon not less than one day's notice, be, and it is hereby, modified to become effective on April 28, 1942, instead of February 26, 1942.

Dated at Washington, D. C., on the 13th day of February 1942.
By the Commission, Commissioner Mahaffie.

[SEAL] W. P. BARTEL, Secretary.

Exhibit C to complaint

No Supplement to this Tariff will be issued except for the purpose of cancelling the Tariff, unless otherwise specifically authorized by the Commission. I. C. C. No. 81 (Cancels I. C. C. No. 74).

COLUMBUS AND GREENVILLE RAILWAY COMPANY

FREIGHT TARIFF No. 9-B (CANCELS FREIGHT TARIFF No. 9-A)

Local Tariff Publishing Rates and Rules Governing Transit Privileges on Cottonseed, Carloads at Columbus, Miss.; Greenville, Miss.; Greenwood, Miss.; Indianola, Miss.; Moorhead, Miss.; West Point, Miss.

CLASSIFICATION

Governed, except as otherwise provided herein, by the Southern Classification No. 55, Agent E. H. Dulaney's I. C. C. No. 71, and by supplements to or successive issues of said publication. Issued September 18, 1938. Effective October 16, 1938. Expires with March 31, 1939, unless sooner cancelled, changed or extended.

Issued by Z. P. Hawkins, Asst. Traffic Manager. N. V. Hutchinson, Traffic Manager. 1304 Main Street, Columbus, Miss. Station Tariff File No. 35. Authority File No. 2777-3.

EFFECTIVE DATE

The rates and rules published in this Tariff apply only on shipments leaving point of origin on and after the effective date of this Tariff.

STATIONS FROM WHICH RATES APPLY

For list of stations from which rates published herein apply, see The Official List of Open and Prepay Stations No. 53, Agent F. A. Leland's I. C. C. No. A-18, supplements thereto or successive issues thereof.

RULES

Item 5—Application of Tariff

(a) The rates and rules published in this tariff apply on Cottonseed, in carloads, from stations on the Columbus and Greenville Railway, or, on Cottonseed, in carloads, received from connecting lines at Columbus and Greenville Railway junction points with such lines to the following manufacturing or mill points on the Columbus and Greenville Railway: Columbus, Miss.; Greenville, Miss.; Greenwood, Miss.; Indianola, Miss.; Moorhead, Miss.; West Point, Miss.,¹ for cracking, crushing, delinting, or other manufacturing processes, and the subsequent shipment of the product, as described in Item 10, in carloads, or less than carload quantities, from such points via the Columbus and Greenville Railway.

(b)² The rates and rules published in this tariff will also apply on Cottonseed, in carloads, from stations on connecting lines, via such lines, to the following manufacturing or mill points on the Columbus and Greenville Railway: Columbus, Miss.; Greenville, Miss.; Greenwood, Miss.; Moorhead, Miss.; West Point, Miss., when the Product, as described in Item 10, is subsequently shipped in carloads, or less than carload quantities, from such points via the Columbus and Greenville Railway.

(c) The rates published in this tariff, must not be used in way-billing shipments. All shipments must be waybilled at full local or joint rates, lawfully applicable to manufacturing or mill point proper, in effect on date of shipment from point of origin.

(d) Upon evidence, as provided for herein, of shipment of the product, as described in Item 10, in carloads, or less than carload

¹ Denotes changes in wording which result in neither increase nor reduction in charges.

² Itta Bena, Miss., eliminated account mill removed.

³ Denotes reduction.

quantities, via the Columbus and Greenville Railway at full published tariff rates applying from the manufacturing or mill point, the freight charges on cottonseed to the manufacturing or mill point will be reduced to the basis of rates shown in Item 40 herein, through Freight Claim Channels.

(e) For every 100 pounds of weight represented by inbound paid freight bills on cottonseed, surrendered for refund, there must be furnished evidence of shipment from the manufacturing or mill point of 93 pounds of cottonseed products, as described in Item 10. When inbound paid freight bills are surrendered at this ratio, the rates shown in Item 40 shall be applied to 93 per cent of the weight of the inbound cottonseed.

(f)* In event there is a deficit between 93 per cent of actual weight of cottonseed and minimum weight of 30,000 pounds, such deficit shall be charged for on basis of carload rate lawfully applicable on cottonseed when for disposition other than for manufacture and reshipment. In no case shall total charge be less than 30,000 pounds, figured at applicable rate shown in Item 40 herein.

Item 10—List of Outbound Cottonseed Products *

Subject to the rules published herein the rates named in Item 50 are conditioned upon shipment of any of the following products of Cottonseed from the Manufacturing or Mill point.

Cottonseed cake or meal (including crushed or ground cake or screenings).

Cottonseed hull fibre or shavings (other than bleached or dyed).

Cottonseed hulls, not ground.

Cottonseed hulls, ground (Cottonseed Hull bran).

Cottonseed hull shavings pulp and cotton linters pulp.

Cotton linters or regins (other than bleached or dyed).

Cottonseed oil, liquid or solidified (Hydrogenated).

Cottonseed oil foots or sediment.

Cotton motes or Cotton sweepings (Cotton refuse from cottonseed oil mills).

Oil, Cooking and/or salad (made wholly of cottonseed oil).

Vegetable oil shortening in semi-solid form or plastic form (made wholly of cottonseed oil).

Item 15¹—Method of Settlement

(a) Cottonseed intended for handling under this Tariff must be consigned locally to the manufacturing or mill point.

* Denotes increase.

(b) Bills of Lading for the product, as described in Item 10, in carloads, or less than carload quantities, shipped from the manufacturing or mill points shall be issued by the Agent at such points at rates applicable on the outbound commodity from such point proper to final destination.

(c) The application of rates authorized herein on cottonseed, will be effected through Claim Channels, as provided in Item 35.

Item 20—Supervision and Inspection

Traffic handled at the rates and under the rules published in this Tariff shall be subject to the supervision of an inspector, or inspectors, who shall have access to the records of the Railroad and of the shippers for the purpose of determining the accuracy of the documents submitted in support of claims for protection of the rates shown in Item 40, herein. Among other duties it shall be the duty of the inspector to:

(a) Check, compare, and verify the inbound freight bills.

(b) Check the records of the Railroad and shippers for the purpose of determining the actual character and weight of outbound shipments, in order that the correctness of claims may be fully shown.

Supplement No. 4 contains all changes from the original tariff. Supplement No. 4 (Cancels Supplement No. 3) to I. C. C. No. 81.

COLUMBUS AND GREENVILLE RAILWAY COMPANY

SUPPLEMENT NO. 5 (CANCELS SUPPLEMENT NO. 4) TO FREIGHT TARIFF NO. 9-B

Local Tariff Publishing Rates and Rules Governing Transit Privileges on Cottonseed, Carloads, at Columbus, Miss.; Greenville, Miss.; Greenwood, Miss.; Indianola, Miss.; Moorhead, Miss.; West Point, Miss.

CLASSIFICATION

Governed, except as otherwise provided herein, by the Southern Classification No. 57, Agent E. H. Dulaney's I. C. C. No. 84, and by supplements to or successive issues of said publication. Issued: January 30, 1941. Effective: March 7, 1941.

ELIMINATION OF EXPIRATION DATE

¹ The expiration date published on page 2 of Supplement No. 3 to I. C. C. No. 81 is hereby eliminated. All rates and provisions

¹ Denotes reduction.

of tariff are continued in effect until lawfully cancelled, changed, or amended.

Departure from the terms of Rule 9 (e) of Tariff Circular No. 20 is authorized under permission of the Interstate Commerce Commission, No. 188390 of January 24, 1941. Issued by Z. P. Hawkins, Traffic Manager, 1304 Main Street, Columbus, Miss. Station Tariff File No. 35. Authority File No. 2777-3.

RULES

Item 25—Changes in Rates and Rules

In the event changes are made in the rates and rules published in this Tariff after the cottonseed is shipped from points of origin, the rates and rules in effect on date of shipment from point of origin to manufacturing or mill point will apply.

Item 30—Time Limit of Freight Bills

Shipments of manufactured product as described in Item 10, in carload, or less than carload quantities, must be made within one year from the date of paid freight bill covering inbound movement of Cottonseed.

Item 35¹—Method of Handling Claims

(a) Claims for refunds of charges on the inbound movement of the cottonseed to the manufacturing or mill point to basis of the rates published in this tariff, must be filed by shipper within fifteen (15) months of the date of the outbound shipment from the manufacturing or mill point and supported by:

(1) The original paid freight bill or bills covering the inbound movement of the cottonseed.

(2) Copies of bills of lading covering outbound movement of the cottonseed or cottonseed product.

(3) A certificate in the following form signed by the shipper.

CLAIM CERTIFICATE

"Tender is hereby made to the Columbus and Greenville Railway Company of paid freight bills numbered and dated as shown below for the purpose of securing application of rates as provided in Columbus and Greenville Railway Company Freight Tariff No. 9-C on the commodity covered thereby. This tender is made in

¹ Denotes change in wording which results in neither increase nor reduction in charges.

good faith and with the specific guarantee on our part that such rates may legally be applied under the rules of said railroad as published in said tariff.

Paid freight bills Nos. ----- Dated ----- At -----
 ----- (Signature of Shipper)"

VALIDITY OF PAID FREIGHT BILLS; RESHIPPING CERTIFICATE

(b) In instances where shipper at manufacturing or mill point, for commercial reasons, forwards shipments from such manufacturing or mill points in the name of another party, firm, or corporation, the actual shipper must add to the above certificate the following:

"For commercial reason the shipment from ----- (Insert name of manufacturing or mill point), in car ----- (Insert car initials and number), shows consignor as ----- (Insert name of consignor as shown in bill of lading). ----- (Signature of Shipper)"

Item 40²—Rates

For distances of (for distances, see Agent Roy Pope's Freight Tariff No. 201-A, I. C. C. No. 1798, supplements thereto or successive issues thereof)	Rates in cents per hundred pounds (cotton-seed car-loads, minimum 30,000 pounds)	For distances of (for distances, see Agent Roy Pope's Freight Tariff No. 201-A, I. C. C. No. 1798, supplements thereto or successive issues thereof)	Rates in cents per hundred pounds (cotton-seed car-loads, minimum 30,000 pounds)
5 miles and under	2 $\frac{1}{2}$	75 miles and over 70	5 $\frac{1}{2}$
10 miles and over 5	2 $\frac{1}{2}$	80 miles and over 75	6 $\frac{1}{2}$
15 miles and over 10	3 $\frac{1}{2}$	85 miles and over 80	6 $\frac{1}{2}$
20 miles and over 15	3 $\frac{1}{2}$	90 miles and over 85	7
25 miles and over 20	3 $\frac{1}{2}$	95 miles and over 90	7
30 miles and over 25	4 $\frac{1}{2}$	100 miles and over 95	7
35 miles and over 30	4 $\frac{1}{2}$	110 miles and over 100	7 $\frac{1}{2}$
40 miles and over 35	4 $\frac{1}{2}$	120 miles and over 110	7 $\frac{1}{2}$
45 miles and over 40	4 $\frac{1}{2}$	130 miles and over 120	7 $\frac{1}{2}$
50 miles and over 45	5 $\frac{1}{2}$	140 miles and over 130	8
55 miles and over 50	5 $\frac{1}{2}$	150 miles and over 140	8
60 miles and over 55	6	160 miles and over 150	8 $\frac{1}{2}$
65 miles and over 60	6	170 miles and over 160	8 $\frac{1}{2}$
70 miles and over 65	6		

² No change in rates.

No supplement to this tariff will be issued, except for the purpose of cancelling the tariff, unless otherwise specifically authorized by the Commission. I. C. C. No. 10845 cancels I. C. C. No. 10743.

FRISCO LINES

(J. M. Kurn and John G. Lonsdale, Trustees)

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY**FREIGHT TARIFF No. 5162-T CANCELS FREIGHT TARIFF No. 5162-S**

Of Rates in Cents Per 100 Pounds Applying on Cottonseed, Car-loads for Application Locally Between Stations on St. Louis-San Francisco Railway Company in Alabama, Florida, Mississippi, and Tennessee When for Cracking, Crushing, Delinting, or Other Manufacturing Processes and Reshipment via St. Louis-San Francisco Railway Company

Governed, except as otherwise provided herein, by the Southern Classification No. 55, Agent E. H. Dulaney's I. C. C. No. 71, and by supplements to or successive issues of said publication. Issued February 20, 1939. Effective March 30, 1939. Issued by J. M. Strupper, Assistant Freight Traffic Manager, 906 Olive Street, St. Louis, Mo.

GENERAL APPLICATION OF RATES**Item 5—Application of Tariff**

(a) The rates and rules as authorized herein apply on cottonseed in carloads to and from stations on the St. Louis-San Francisco Railway Company in Alabama, Florida, Mississippi, and Tennessee via the St. Louis-San Francisco Railway Company from origin to manufacturing or mill points for cracking, crushing, delinting, or other manufacturing processes, and the subsequent shipment of the product, viz: cottonseed oil, cottonseed oil soap stock, cottonseed oil foots or sediment, crude cottonseed oil tank bottoms, cottonseed cake, cottonseed meal, cottonseed hull fibre or shavings, other than bleached or dyed, cottonseed hulls, cotton linters, cotton linter pulp, cottonseed hull fibre shavings pulp, cottonseed oil mill motes, cottonseed oil (cooking)¹ or lard substitutes (made wholly of cottonseed oil),¹ carloads or less carloads, from the manufacturing or mill point via the St. Louis-San Francisco Railway Company.

(b) The rates shown herein must not be used in waybilling shipments. All shipments must be waybilled at full local or joint rates applicable to manufacturing or mill point proper, in effect on the date of shipment from point of origin, and freight charges will be collected by the agent at such rates upon delivery.

(c) Upon evidence, as provided for herein, of shipments of products of cottonseed, viz: cottonseed oil, cottonseed oil soap stock, cottonseed oil foots or sediment, crude cottonseed oil tank bottoms, cottonseed cake, cottonseed meal, cottonseed hull fibre or shavings, other than bleached or dyed, cottonseed hulls, cotton linters, cotton linter pulp, cottonseed hull fibre shavings pulp, cottonseed oil mill motes, cottonseed oil (cooking)¹ or lard substitutes (made wholly of cottonseed oil),¹ carloads or less carloads, via St. Louis-San Francisco Railway Company, at full published tariff rates applying from the manufacturing or mill point, the freight charges on cottonseed to the manufacturing or mill point will be reduced to the basis of rates shown herein through the Freight Claim Department on basis of ratio of 100 pounds of cottonseed inbound for each 98 pounds of product outbound.

Item 10.²—Alternative Application of Class Rates With Commodity Rates Named Herein on Cottonseed and Cottonseed Products

If the charges accruing under the class rates published in the following tariffs, including supplements to or successive issues thereof, from and to the same points via the same routes, are lower than the charges accruing under the commodity rates published in this tariff on cottonseed and cottonseed products, the lower charges resulting from such class rates will apply.

Agent	Territory	Tariff	I. C. C. No.
F. D. Miller.....	Alabama.....	710-A	221
F. D. Miller.....	Mississippi.....	714-A	222
F. D. Miller.....	Tennessee.....	717-A	217

Item 15—Certificate to Be Attached to Claims

Claims must be accompanied by certificate in following form:
 "Tender is hereby made to the St. Louis-San Francisco Railway Company of paid freight bills numbered and dated as specified below for the purpose of securing application of rates as provided in St. Louis-San Francisco Railway Company Tariff No. 5162-T, I. C. C. No. 10845, on the commodity covered thereby. This tender is made in good faith and with the specific guarantee on our part that such rates may legally be applied under the rules of said rail-

¹ Applicable only at Memphis, Tenn.

² Applicable only on Interstate traffic.

roads, as published in their Tariff No. 5162-T, I. C. C. No. 10845, effective March 30, 1939.

Paid Freight Bills ----- Pro. No. ----- Date -----
Manufacturing Point -----

(Signature of Claimant)"

Item 20—Changes in Rates and Rules

In the event changes are made in rates and rules published herein after the cottonseed is shipped from points of origin, the rates and rules in effect on date of shipment from points of origin will apply, except as otherwise provided in Item 70.

Item 25 *—Change of Ownership of Cottonseed

The transfer by mills of paid freight bills covering cottonseed will be permitted only where the commodity is also transferred by bona fide sale. A certificate to this effect shall be made in the following form on the face of the freight bill:

"This is to certify that there has been a bona fide sale to the undersigned of the commodity covered by this freight bill.

(Signed) -----
(Dated) -----"

Item 30—Credit Slips

Where the outbound shipment from manufacturing point does not equal in pounds the weight represented by the inbound freight bill covering the seed, and which is offered for cancellation, a credit tonnage slip shall be given shipper by carrier for such difference, less the deduction for the loss, and such tonnage slip will be accepted on future shipments by the carrier the same as freight bills on which privileges authorized herein have been accorded.

The credit tonnage slips must give full reference to the cancelled freight bill, by waybill number, car number and initials, point of origin and rate collected to the manufacturing point.

Item 35—List of Stations Showing Facilities, Billing Instructions, et Cetera

Governed by Official List of Open and Prepay Stations No. 53, Agent F. A. Leland's I. C. C. No. A-18, supplements thereto or successive issues thereof, as to prepay requirements, changes in names of stations, additions and abandonment of stations, billing instructions from or to points not on railroads, restrictions as to

* Not applicable on Alabama intrastate traffic.

nonacceptance or nondelivery of freight and changes in station facilities, except as otherwise shown herein.

Item 40—Marked Capacity and Dimensions of Cars

For marked capacities and dimensions of cars to be used in the establishment of minimum weights on commodities based thereon, see **Official Railway Equipment Register**, Agent G. P. Conard's **I. C. C. R. E. R.** No. 250.

Item 45—Method of Settlement

(a) Cottonseed intended for handling under this tariff must be consigned locally to the manufacturing or mill point.

(b) Bills of lading for the products, viz: cottonseed oil, cottonseed oil soap stock, cotton seed oil frots or sediment, crude cottonseed oil tank bottoms, cottonseed cake, cottonseed meal, cottonseed hull fibre or shavings, other than bleached or dyed, cottonseed hulls, cotton linters, cotton linter pulp, cottonseed hull fibre shavings pulp, cottonseed oil mill motes, cottonseed oil (cooking)¹ or lard substitutes (made wholly of cottonseed oil),² carloads or less carloads, shipped from the manufacturing or mill point, shall be issued by the agent at such point at rates applicable on outbound commodities from such point proper to final destination.

(c) The application of the rates on cottonseed, inbound, as authorized herein will be effected by claim. Claim must be supported with copies of the outbound bills of lading from the manufacturing or mill point, together with statements showing movement of the cottonseed on which rates are applicable inbound and shipments of the outbound product from the manufacturing or mill point, such claims to be tendered to the local agent of the St. Louis-San Francisco Railway Company, who will attach copy of outbound waybills from the manufacturing or mill point, together with the original inbound paid freight bill and reshipping certificate prescribed in Item 15.

Item 50—Reference to Items, Tariff, Circulars, or Classification

Where reference is made to an item, tariff, circular, or classification, such reference will embrace supplements to or successive issues, as the case may be, of such publication.

Item 55—Shipments From Connecting Lines

The rates shown herein also apply from junctions of the St. Louis-San Francisco Railway Company with connecting lines on

¹ Applicable only at Memphis, Tenn.

shipments originating at points on connecting lines from which no through net rates are published, subject to the rules herein.

Item 60—Supervision and Inspection

The traffic handled at the rates and under the rules shown in this tariff shall be subject to the supervision of an inspector or inspectors, who shall have access to the records of the railroads and of the shippers for the purpose of determining the accuracy of the documents submitted in support of claims for protection of the rates shown herein.

Among other duties, it shall be the duty of the inspector to:

- (a) Check, compare, and verify the inbound road's freight bills.
- (b) Check the records of the railroads and shippers for the purpose of determining the actual character and weight of the outbound shipments, in order that the correctness of the claims may be fully shown.

Item 65 ½—Terminal or Transit Privileges or Services

In the absence of specific provisions in this tariff to the contrary, shipments transported under this tariff will be entitled to such allowances and privileges and subject to such charges, rules, and regulations as are provided in tariffs lawfully in effect and on file with the Interstate Commerce Commission, for terminal or transit privileges or services, including also:

Car Rental, Car Service, Cartage, Demurrage, Diversion, Elevation, Heater Service, Icing, Lighterage, Loading, Private Car Mileage, Reconsignment, Refrigeration, Stop-off, Storage, Switching, Transfer, Transit Privileges, Unloading, Weighing.

Item 70—Time Limit of Freight Bills

Shipments of manufactured product, viz: cottonseed oil, cottonseed oil soap stock, cottonseed oil foots or sediment, crude cottonseed oil tank bottoms, cottonseed cake, cottonseed meal, cottonseed hull fibre or shavings, other than bleached or dyed, cottonseed hulls, cotton linters, cotton linter pulp, cottonseed hull fibre shavings pulp, cottonseed oil mill motes, cottonseed oil (cooking)¹ or lard substitutes (made wholly of cottonseed oil),¹ carloads or less carloads, must be made within one year from the date of paid freight bill covering inbound movement of cottonseed.

¹ Applicable only at Memphis, Tenn.

² Denotes change in wording which results in neither increase nor reduction in charges.

Item 75—Validity of Paid Freight Bills, Reshipping Certificate

In instances where the shipper at the transit point, for commercial reasons, forwards shipment from the transit point in the name of another party, firm, or corporation, the actual transit shipper must add to the reshipping certificate quoted above, the following:

"For commercial reasons, the shipment from _____ (insert name of transit point), in car _____ (insert car initial and number), shows consignor as follows:

(Signature of Shipper)"

Rates Applying on Cottonseed, Carloads

[Minimum weight 30,000 pounds—see Items 5 to 75, inclusive]

Distance (see note)	Rate	Distance (see note)	Rate
10 miles and under	2 $\frac{1}{4}$	130 miles and over 110	7 $\frac{1}{4}$
15 miles and over 10	3 $\frac{1}{4}$	130 miles and over 120	7 $\frac{1}{2}$
20 miles and over 15	3 $\frac{1}{4}$	140 miles and over 130	8
25 miles and over 20	3 $\frac{1}{4}$	150 miles and over 140	8
30 miles and over 25	4 $\frac{1}{4}$	160 miles and over 150	8 $\frac{1}{4}$
35 miles and over 30	4 $\frac{1}{4}$	170 miles and over 160	8 $\frac{1}{2}$
40 miles and over 35	4 $\frac{1}{4}$	180 miles and over 170	9
45 miles and over 40	4 $\frac{1}{4}$	190 miles and over 180	9
50 miles and over 45	5 $\frac{1}{4}$	200 miles and over 190	9 $\frac{1}{4}$
55 miles and over 50	5 $\frac{1}{2}$	210 miles and over 200	9 $\frac{1}{2}$
60 miles and over 55	6	220 miles and over 210	10
65 miles and over 60	6	230 miles and over 220	10
70 miles and over 65	6	240 miles and over 230	11
75 miles and over 70	6 $\frac{1}{4}$	250 miles and over 240	12
80 miles and over 75	6 $\frac{1}{2}$	260 miles and over 250	12
85 miles and over 80	6 $\frac{1}{2}$	270 miles and over 260	13
90 miles and over 85	7	280 miles and over 270	13
95 miles and over 90	7	290 miles and over 280	14
100 miles and over 95	7	300 miles and over 290	14
110 miles and over 100	7 $\frac{1}{4}$	300 miles and over 300	15

* Applicable only on Interstate traffic.

Note.—For distances to be used in connection with this tariff, see St. Louis-San Francisco Railway Freight Tariff No. 1289-P, I. C. C. No. 10114.

Exhibit E to complaint

Ill. C. C. No. A-1503. (Cancels Ill. C. C. No. A-1413). I. C. C. No. 8206 (Cancels I. C. C. No. 8067).

ILLINOIS CENTRAL RAILROAD COMPANY**THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY IN
CONNECTION WITH PARTICIPATING CARRIERS SHOWN HEREIN**

2912-Q (Cancels 2912-P)

Local and Joint Freight Tariff Publishing Rates, Rules and Regulations Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds for Single and Joint Line Application Between

Stations on Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Gulf and Ship Island Railroad, and Connecting Lines Also Between Stations on Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Gulf & Ship Island Railroad, and Connecting Lines, When for Cracking, Crushing, Delinting, or Other Manufacturing Process and Reshipment, Also Distance or Mileage Rates as Shown on Page 6, Section No. 1 and Page 10, Section No. 2.

CLASSIFICATION

Governed, except as otherwise provided herein, by the Southern-Classification No. 55, Agent E. H. Dulaney's I. C. C. No. 71, and by supplements to or successive issues of said publication. Issued July 21, 1938. Effective September 1, 1938. (Published to meet Motor Truck Competition and will expire with September 30, 1938, unless sooner cancelled, changed, or extended). Issued by R. A. Trovillion, General Freight Agent, 135 East Eleventh Place, Chicago, Ill. F. H. Law, General Traffic Manager, Chicago, Ill. William Haywood, Freight Traffic Manager, Chicago, Ill.

Participating carriers

Name of carrier	Concurrence		
	FX	I. C. R. R. No.	The Y. and M. V. R. R. No.
Canton & Carthage Railroad Company.....	5	1	3
Fernwood, Columbia & Gulf Railroad Company.....	5	3	16
Gulf, Mobile and Northern Railroad Company.....	2	337	337
Gulf and Ship Island Railroad Company.....	5	A-3	A-4
Mississippi Central Railroad Company.....	5	2	14
Mississippi & Skuna Valley Railroad Company.....	5	1	2
Mobile and Ohio Rail Road Company (C. E. Ervin and T. M. Stevens, Receivers).....	3	60	
Northern Alabama Railway Company.....	3	2462	2461
St. Louis-San Francisco Railway Company (J. M. Kurn and John G. Longdale, Trustees).....	5	49	
Southern Railway Company.....	3	2462	2461

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Supplement No. 12 to Ill. C. C. No. A-1503 (Cancels Supplement No. 11). Supplement No. 12 to I. C. C. No. 8206 (Cancels Supplement No. 11). (Supplement No. 12 contains all changes from original tariff effective on date hereof.)

ILLINOIS CENTRAL RAILROAD COMPANY

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY IN CONNECTION WITH PARTICIPATING CARRIERS SHOWN IN TARIFF

Supplement No. 12 (Cancels Supplement No. 11). (Supplements Nos. 1-A,¹ 11-A,¹ and 12 contain all changes from original tariff effective on date hereof) to 2912-Q.

¹Local and Joint Freight Tariff Publishing Rates, Rules and Regulations Applying on Cottonseed, Carloads. Minimum Weight 30,000 Pounds, for Single and Joint Line Application Between Stations on Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Gulf and Ship Island Railroad, and Connecting Lines; also Between Stations on Illinois Central

¹ Intrastate.

Railroad, The Yazoo and Mississippi Valley Railroad, Gulf & Ship Island Railroad and Connecting Lines, when for Cracking, Crushing, Delinting or Other Manufacturing Process and Reshipment; also Distance or Mileage Rates as shown on Page 6 of Tariff, Section No. 1 and Page 10 of Tariff, Section No. 2; also Distance or Mileage Rates Applying on Soya Beans, Carload, Between Stations on Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, and Gulf and Ship Island Railroad, as Shown in Section No. 3 Herein

CLASSIFICATION

Governed, except as otherwise provided herein, by the Southern Classification No. 57, Agent E. H. Dulaney's I. C. C. No. 84, and by supplements to or successive issues of said publication. Issued October 23, 1941. Effective November 27, 1941 (except as otherwise provided herein). Published to meet Motor Truck Competition. Except as otherwise provided, rates published in Tariff, as amended, expire with December 31, 1941, unless sooner cancelled, changed or extended. Issued by W. L. Reeves, General Freight Agent, 135 East Eleventh Place, Chicago, Ill. J. L. Sheppard, Freight Traffic Manager, Chicago, Ill. R. A. Trolley, Assistant Freight Traffic Manager, Chicago, Ill.

Participating Carriers¹

List of Participating Carriers is as shown in Tariff, except as shown below.

Name of carrier	Concurrence		
	FX	I. C. R. R. No.	The Y. and M. V. R. R. No.
Mobile and Ohio Rail Road Company (C. R. Ervin and T. M. Stevens, Receivers)	(0)	(0)	(0)
Northern Alabama Railway Company	(0)	(0)	(0)
St. Louis-San Francisco Railway Company (J. M. Kurn and John G. Lonsdale, Trustees)	(0)	(0)	(0)
Southern Railway Company (EL-688)	(0)	(0)	(0)

¹ Cancel account no application.

General Change²

Refer to Tariff and correct Title Page to read:

Published to meet Motor Truck Competition and will expire with December 31, 1941, unless sooner cancelled, changed, or extended.

¹ Reissued from Supplement No. 4, effective March 22, 1939.

² Reissued from Supplement No. 10, effective December 26, 1940.

For Explanation of Route Nos., see page 12 of tariff.

General Change²

The suspension of Rule No. 30, on page 9, and the expiration date of September 30, 1938, on the title page, insofar as it affects Rule No. 30 of I. C. C. No. 8206, Ill. C. C. No. A-1503, Tariff No. 2912-Q, is hereby vacated and set aside as of March 30, 1939, on and after which date provisions of Supplement No. 5 will apply.

Cancels corresponding provisions on page 4 of Tariff, as amended.

(BC-661-661)

Application of Tariff—List of Stations to and from which Distance Rates Shown in Section No. 1 Apply

The distance rates provided in Section No. 1 apply between stations on the following railroads for Single or Joint line hauls over such railroads:

Illinois Central Railroad (Southern Lines), except as provided in Note "C" below.

The Yazoo and Mississippi Valley Railroad (except stations in Louisiana on the Shreveport District west of Mississippi River).

Gulf and Ship Island Railroad.

as shown in:

I. C. R. R. Tariff 36-E, I. C. C. No. 7614 (see Exceptions in Note "C" below).

The Y. and M. V. R. R. Tariff 30-D, I. C. C. No. 8258 (except stations in Louisiana on the Shreveport District west of Mississippi River).

G. & S. I. R. R. Tariff 34-E, I. C. C. No. 1194.

Note C.—The provisions of Section No. 1 apply between stations on the Birmingham District of the Illinois Central Railroad only as follows:

(a) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive.

(b) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive.

and

Birmingham, Ala., and points in the Birmingham, Ala., Switching District.

(c) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive; also Birmingham, Ala., and points in the Birmingham, Ala., Switching District, except points on Bessemer Branch.

and

Stations on Illinois Central Railroad other than Birmingham District, Corinth, Miss., to Birmingham, Ala., inclusive.

² Reissued from Supplement No. 5, effective March 30, 1939.

List of Stations to and From Which Distance Rates Shown in Section No. 2 Apply

The distance rates provided in Section No. 2 apply from, to and between stations on the following railroads for single and joint line hauls over such railroads: (See Note 1).

Illinois Central Railroad (Southern Lines), except as provided in Notes "A" and "B" below.

The Yazoo and Mississippi Valley Railroad (except stations in Louisiana on the Shreveport District west of Mississippi River).

Gulf and Ship Island Railroad.

as shown in :

I. C. R. R. Tariff 36-E, I. C. C. No. 7614 (see Exceptions in Notes "A" and "B" below).

The Y. and M. V. R. R. Tariff 30-D, I. C. C. No. 8258 (except stations in Louisiana on the Shreveport District west of Mississippi River).

G. & S. I. R. R. Tariff 34-E, I. C. C. No. 1194.

Note A.—The provisions of Section No. 2 apply to, from or between stations in the Birmingham District of the Illinois Central Railroad only as follows:

(a) Between stations, Haleyville, Ala., to Corinth, Miss., inclusive.

(b) Between stations, Haleyville, Ala., to Corinth, Miss., inclusive.

and

Birmingham, Ala. (see Note "B"), and points in the Birmingham, Ala., Switching district.

(c) Between stations, Haleyville, Ala., to Corinth, Miss., inclusive; also Birmingham, Ala. (see Note "B"), and points in the Birmingham, Ala., Switching District, except points on Bessemer Branch.

and

Stations on Illinois Central Railroad other than Birmingham District, Corinth, Miss., to Birmingham, Ala., inclusive. (See Note "B".)

Note B.—(a) Rates published in Section No. 2 on Cotton seed to Birmingham, Ala., will not apply when shipments of Cottonseed Products are destined to stations in States of Alabama (except stations on Illinois Central R. R.), Florida, Georgia, North Carolina, and South Carolina. Rates will apply to stations on Illinois Central R. R. in Alabama when routed via Illinois Central R. R., direct.

(b) On Cottonseed Products from Birmingham, Ala., destined to stations in states other than enumerated in paragraph (a), rates

published in Section 2 herein, on Cottonseed to Birmingham, Ala., will apply only when shipments of Cottonseed Products from Birmingham, Ala., are routed over the rails of the Illinois Central R. R., through or via Corinth, Miss.

(c) When shipments are not handled in accordance with paragraphs (a) and (b), local rates will be applied on Cottonseed from point of origin to Birmingham, Ala., and no readjustment will be made under the provisions of Section No. 2 of this Tariff.

Note 1.—On Cottonseed originating at stations on the Mississippi & Skuna Valley Railroad shipped to Greenwood, Miss., for cracking, crushing, delinting, or other manufacturing processes under the rules of this tariff, and shipment of the product thereof (as defined in Rule 30 of tariff, as amended), via the Y. & M. V. R. R., rate of 8 cents per 100 pounds to Greenwood, Miss., shown on page 10 of tariff will be applied.

List of Stations to and From Which Distance Rates Shown in Section No. 3 Apply^{1,2}

Rates published in Section No. 3 are permanent rates and do not expire with December 31, 1941.

The distance rates provided in Section No. 3 apply between stations on the following railroads for Single or Joint line hauls over such railroads:

Illinois Central Railroad (Southern Lines) except as provided in Note "D" below.

The Yazoo and Mississippi Valley Railroad (except stations in Louisiana on the Shreveport District west of the Mississippi River).

Gulf and Ship Island Railroad.

as shown in :

ICRR Tariff 36-E, ICC No. 7614 (see Exceptions in Note "D" below).

The Y&MV RR Tariff 30-D ICC No. 8258 (except stations in Louisiana on the Shreveport District west of the Mississippi River).

G&SI RR Tariff 34-E ICC No. 1194.

Note D.—The provisions of Section No. 3 apply between stations on the Birmingham District of the Illinois Central Railroad only as follows:

¹ Reduction.

² Effective November 10, 1941. Issued on fifteen days' notice under permission of the Interstate Commerce Commission No. 5001 of October 14, 1941.

Issued on one day's notice under permission of the Alabama Public Service Commission No. 134 of October 18, 1941.

Issued on one day's notice under permission of the Kentucky Railroad Commission Short Notice Order No. 528.

(a) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive.

(b) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive.

and

Birmingham, Ala., and points in the Birmingham, Ala., Switching District.

(c) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive; also Birmingham, Ala., and points in the Birmingham, Ala., Switching District.

and

Stations on Illinois Central Railroad other than Birmingham District, Corinth, Miss., to Birmingham, Ala., inclusive.

SECTION No. 2

(For Application, refer to pages 4 to 9 of tariff, as amended)

Rule 30 * Cancels Rule 30 of Supplement No. 6. Application
(EL-363-4571)

(a) The rates and rules, as authorized in Section No. 2 of tariff, as amended, apply on Cottonseed in carloads to and from stations shown under "List of Station to and From Which Rates Shown in Section No. 2 Apply" and in miscellaneous items on pages 11 and 12 of tariff moved solely (see Note 1) via the Illinois Central R. R., The Yazoo and Mississippi Valley R. R., and/or the Gulf and Ship Island R. R. from origin to manufacturing or mill stations for cracking, crushing, delinting, or other manufacturing processes, and the subsequent shipment of the product as described in Rule No. 32 of tariff, in carloads, or less than carload quantities, from the manufacturing or mill station via Illinois Central R. R., The Yazoo and Mississippi Valley R. R. and/or Gulf and Ship Island R. R. (See Exception.)

(b) The rates shown in Section No. 2 of tariff, as amended, must not be used in waybillings shipments. All shipments must be waybilled at full local or joint rates applicable to manufacturing or mill station proper, in effect on date of shipment from point of origin and freight charges will be collected by the agent at such rates upon delivery.

(c) Upon evidence, as provided for herein, of shipment of product of Cottonseed, as described in Rule No. 32 of tariff, in carload or less than carload quantities, via Illinois Central R. R., The Yazoo and Mississippi Valley R. R., and/or the Gulf and Ship Island

* Reissued from Supplement No. 7, effective August 23, 1939.

R. R. at full published tariff rates applying from manufacturing or mill station, the freight charges on Cottonseed to the manufacturing or mill station will be reduced to the basis of rates, shown on pages 10, 11, and 12 of tariff, through the Freight Claim Department. (See Exception.)

For every 100 pounds of weight represented by paid inbound freight bills on Cottonseed, surrendered for refund, there must be furnished evidence of shipment from the mill station of 93 pounds of Cottonseed Products named in Rule No. 32 of tariff. When paid inbound freight bills are surrendered at this ratio, the net rates shown on pages 10, 11, and 12 of tariff shall be applied to 93 percent of the weight of the inbound Cottonseed. In event there is a deficit between 93 percent of actual weight of Cottonseed and minimum weight of 30,000 pounds, such deficit shall be charged for on basis of carload rate lawfully applicable on Cottonseed when for disposition other than for manufacture and re-shipment. In no case shall total charge be less than 30,000 pounds, figured at applicable net rate shown on pages 10, 11, and 12 of tariff.

Exception.—Rates provided in this Section do not apply on traffic reshipped direct from crude oil mills to destination in States of Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri (on and north of the line of the C. R. I. & P. Ry., St. Louis to Chilhowee, Mo., thence M. K. T. R. R., Chilhowee to West Line, Mo.), Montana, Nebraska, North Dakota, South Dakota, Oregon, Wisconsin, Washington, and Wyoming via routes through the States of Arkansas, Louisiana (west of Mississippi River) or Texas.

Note 1.—On Cottonseed originating at stations on the Mississippi & Skuna Valley R. R. shipped to Greenwood, Miss., for cracking, crushing, delinting, or other manufacturing processes under the rules of this tariff, and shipment of the product thereof, as described in Rule No. 32 of tariff, via The Y. and M. V. R. R., rate of 8 cents per 100 pounds to Greenwood, Miss., shown on page 11 of tariff, will be applied.

Rule 32 * Cancels Rule 32 of Tariff

Rates and rules in Section 2 of Tariff, as amended, apply in connection with following products shipped from manufacture or mill station:

Cottonseed cake or meal (including crushed or ground cake or screenings).

Cottonseed hull fibre or shaving (other than bleached or dyed).

Cottonseed hulls, not ground.

Cottonseed hulls, ground (Cotton seed hull bran).

Cottonseed hull shavings pulp and cotton linters pulp.
 Cotton linters or regins (other than bleached or dyed).
 Cottonseed oil, liquid or solidified (hydrogenated).
 Oil, cooking and/or salad (made wholly of cottonseed oil).⁵
 Cottonseed oil foots or sediment.⁶

Cotton mottes or cotton sweepings (cotton refuse from cottonseed oil mills).

Feed, Cattle, consisting of not less than 65% Cottonseed Meal and Cotton Seed Hulls nor more than 10% Cracked Corn and 10% Alfalfa, remainder made up of Molasses, Calcium, and Salt, or Salt without Molasses. C. L. (See Note 2) (EN262-657) (DA-84171).

Vegetable oil shortening in semi-solid form or plastic form (made wholly of cottonseed oil).⁵

Note 2.—Only the weight of the Cottonseed Meal and Cottonseed Hulls of the outbound shipment shall be used in determining the application of net rates on Cottonseed shown in Section 2 of Tariff, as amended.

Rule 55 Cancels Rule 55 of Tariff. Shipments From Connecting Lines.⁶

The rates published in Section No. 2 of tariff, as amended, also apply from junctions of the Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Fernwood, Columbia & Gulf Railroad and/or Gulf and Ship Island Railroad with connecting lines on shipments originating at stations on connecting lines from which no through net rates are published, subject to the rules herein; also from Vicksburg, Miss., on cottonseed originating at stations on connecting lines of The Yazoo and Mississippi Valley R. R. received from such connections at Louisiana junctions when moving through Vicksburg, Miss.

(EL-262-588) (D. A. 70026)

Rates of freight in cents per 100 pounds applying on cottonseed, carloads, minimum weight 30,000 pounds

Item No.	From—	To—	Rate	Route No.
63 ¹	Michigan City, Miss.....	Birmingham, Ala., (EL-27-728) (D. A. 68-26).....	12	1
	Lamar, Miss.....			
	Hudsonville, Miss.....			
63-a cancels 63 ²	G. M. & N. R. R.—Jackson, Tenn (EL-493-521).	Memphis, Tenn.....	6½	8

¹ Reissued from Supplement No. 8, effective October 15, 1939.

² Reissued from Supplement No. 3, effective October 25, 1938.

* Applicable only at Brookhaven, Miss.; Hazelhurst, Miss.; Helena, Ark.; Jackson, Miss.; Magnolia, Miss.; Memphis, Tenn.; and New Orleans, La.

⁵ Reissued from Supplement No. 9, effective December 12, 1939.

For explanation of Route Nos., see page 12 of tariff.

SECTION NO. 3 (NEW)^{1,2}

(For Application of Rates, see page 4 of Tariff, as amended)

(Rates published in Section No. 3 are permanent rates and do not expire with December 31, 1941.) Rates of Freight in cents per 100 pounds applying on Soya Beans, Carload, Minimum Weight Marked Capacity of Car.

Distance or Mileage Commodity rates shown in Section No. 3 may be used only when no specific through commodity rates from and to the same points have been provided. When governed by a Classification which also contains Distance or Mileage commodity rates they will take precedence over the distance or mileage commodity rates in such classification.

Distances	In cents per 100 pounds	Distances	In cents per 100 pounds
10 mi. and less	6 1/4	85 mi. and over 80	11
15 mi. and over 10	6 1/4	100 mi. and over 85	12
25 mi. and over 15	7 1/4	120 mi. and over 100	13
30 mi. and over 25	8	140 mi. and over 120	14
35 mi. and over 30	8 3/4	160 mi. and over 140	15
40 mi. and over 35	9	180 mi. and over 160	16
45 mi. and over 40	9 1/4	200 mi. and over 180	17
50 mi. and over 45	9 1/4	220 mi. and over 200	18
65 mi. and over 55	10	240 mi. and over 220	18
70 mi. and over 65	10	260 mi. and over 240	19
75 mi. and over 70	10 1/2	280 mi. and over 260	20
80 mi. and over 75	11	300 mi. and over 280	21

Table of Distances

For Distances to use in connection with this Tariff refer to Illinois Central Railroad Tariff No. 36-E ICC No. 7614, The Yazoo and Mississippi Valley Railroad Tariff No. 30-D ICC No. 8258 (stations east of the Mississippi River only) and Gulf and Ship Island Railroad Tariff No. 34-E, ICC No. 1194.

¹ Will not apply on Mississippi Intrastate traffic.² Effective November 10, 1941. Issued on fifteen days' notice under permission of Interstate Commerce Commission No. 3001 of October 14, 1941.

Issued on one day's notice under permission of the Alabama Public Service Commission No. 134 of October 18, 1941.

Issued on one day's notice under permission of the Kentucky Railroad Commission Short Notice Order 523.

MISSISSIPPI INTRASTATE**ILLINOIS CENTRAL RAILROAD COMPANY, THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY IN CONNECTION WITH PARTICIPATING CARRIERS SHOWN IN TARIFF**

Supplement No. 1-A. (Supplements Nos. (1)¹ and 1-A² contain all changes from original tariff effective on date hereof, to 2912-Q, Local and Joint Freight Tariff Publishing Rates, Rules, and Regulations Applying on Cottonseed, Carloads, Minimum Weight, 30,000 Pounds, for Single and Joint Line Application Between Stations on Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Gulf and Ship Island Railroad, and Connecting Lines. Also Between Stations on Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Gulf & Ship Island Railroad and Connecting Lines, When for Cracking, Crushing, Delinting or Other Manufacturing Process and Reshipment. Also Distance or Mileage Rates as Shown on Page 6 of Tariff, Section No. 1 and Page 10 of Tariff, Section No. 2)

Issued August 12, 1938. (Issued under authority of the Mississippi Railroad Commission of September 28, 1936). Effective September 1, 1938. Issued by R. A. Trovillion, General Freight Agent, 135 East 11th Place, Chicago, Illinois. F. H. Law, General Traffic Manager, Chicago, Illinois. William Haywood, Freight Traffic Manager, Chicago, Illinois.

¹ Suspension Supplement (I&S 4515).

² Intrastate.

SECTION No. 1

(For Application, See Page No. 6 of Tariff)

SECTION No. 2

(For Application, See Page 10 of Tariff)

Item No.	From—	To—	Rate	
35-A (Cancelled 35) ¹	Miss. C. R. R. Stations	Jackson, Miss.	Cancel. For rates refer to Item 57 of Section No. 2.	
Item No.	From—	To—	Rate (in cents per 100 pounds)	Route
	Miss. C. R. R.			
	Brookhaven, Miss.		8.0	10
	Bude, Miss.		9.5	10
	Carlos, Miss.		8.0	10
	Caleo, Miss.		9.0	10
	Cobba, Miss.		8.0	10
	Cranfield, Miss.		10.5	10
	Eddiceton, Miss.		9.0	10
	Fenwick, Miss.		10.5	10
	Kirby, Miss.		10.0	10
	Leesdale, Miss.		10.5	10
	Lucien, Miss.		8.0	10
	McCalls, Miss.		9.5	10
	Meadville, Miss.		9.5	10
	Mile Branch, Miss.		9.5	10
	Monroe, Miss.		9.5	10
	Quentin, Miss.		9.0	10
	Roxie, Miss.		10.0	10
	Washington, Miss.		11.0	10
	Williams, Miss.		8.5	10
	Zeta, Miss.		8.5	10
		Jackson, Miss.		

Route No. 10.—Miss. Cent. R. R., Brookhaven, Miss., I. C. R. R.

¹ Change in wording which results in neither increases nor reductions in charges.**Abbreviations**

Abbreviations	Explanations
And	
Ala.	Alabama
Ark.	Arkansas
C. & C.	Canton & Carthage Railroad.
C. L.	Carloads.
Co.	Company.
F. C. & G. R. R.	Fernwood, Columbia & Gulf Railroad.
G. M. & N. R. R.	Gulf, Mobile and Northern Railroad.
G. & S. I. R. R.	Gulf and Ship Island Railroad.
I. C. C.	Interstate Commerce Commission.
I. C. R. R.	Illinois Central Railroad.
Ill.	Illinois.
Illinois Central System	Illinois Central Railroad Co., The Yazoo and Mississippi Valley Railroad Co., and Gulf and Ship Island Railroad Co.
Ind.	Indiana.
Ind.	Inclusive.
Ky.	Kentucky.
La.	Louisiana.
Miss.	Mississippi.
Miss. C. R. R.	Mississippi Central Railroad.
No.	Number.
R. R.	Railroad.
Ry.	Railway.
Vn.	Namely.
Y. & M. V. R. R.	The Yazoo and Mississippi Valley Railroad.

Index of points of origin from which specific rates are published herein

Station	Railroad	Page No.	Item No.
Barto, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Bassfield, Miss.	Miss. C. R. R.	7-8	25-30
Beardens, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Benwood, Miss.	M. & S. V. R. R.	11	55
Bradford, Tenn.	I. C. R. R.	11	60
Brookhaven, Miss.	Miss. C. R. R.	8	35
Bruce, Miss.	Miss. S. V. R. R.	11	55
Bude, Miss.	Miss. C. R. R.	7-8	25-35
Carlos, Miss.	Miss. C. R. R.	8	35
Carson, Miss.	Miss. C. R. R.	8	30
Carthage, Miss.	C. & C. R. R.	7-8-11-12	15-40-70-90
Celeo, Miss.	Miss. C. R. R.	8	35
Cobbe, Miss.	Miss. C. R. R.	8	35
Columbia, Miss.	F. C. & G. R. R.	7-11	10-75-80
Conerly, Miss.	F. C. & G. R. R.	8-12	45-95
Cranfield, Miss.	Miss. C. R. R.	8	35
Davo, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Eddington, Miss.	Miss. C. R. R.	7-8	25-35
Edinburg, Miss.	C. & C. R. R.	7-8-11-12	15-40-70-90
Fenwick, Miss.	Miss. C. R. R.	8	35
Fernwood, Miss.	F. C. & G. R. R.	8-12	45-95
Grand Junction, Tenn.	I. C. R. R.	11	60
Greenfield, Tenn.	I. C. R. R.	11	60
Gums, Miss.	M. & S. V. R. R.	11	55
Hamage, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Hickory Valley, Tenn.	I. C. R. R.	11	60
Jackson, Tenn.	G. M. & N. R. R.	7-11	20-85
Jennings, Miss.	F. C. & G. R. R.	7-11	10-75
Kioto, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Kirby, Miss.	Miss. C. R. R.	8	35
Kokomo, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Knox, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Leesdale, Miss.	Miss. C. R. R.	8	35
Lovell, Miss.	F. C. & G. R. R.	8-12	45-95
Lucien, Miss.	Miss. C. R. R.	8	35
Martin, Tenn.	I. C. R. R.	11	60
McCalls, Miss.	Miss. C. R. R.	8	35
Meadville, Miss.	Miss. C. R. R.	7-8	25-35
Mesa, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Middlebury, Tenn.	I. C. R. R.	11	60
Mile Branch, Miss.	Miss. C. R. R.	8	35
Monroe, Miss.	Miss. C. R. R.	8	35
Mound City, Ill.	I. C. R. R.	11	65
Neb, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Parsons, Miss.	F. C. & G. R. R.	8-12	45-95
Perdue, Miss.	F. C. & G. R. R.	8-12	45-95
Pittman, Miss.	M. & S. V. R. R.	11	55
Pitts, Miss.	F. C. & G. R. R.	7-11	10-75
Prentiss, Miss.	Miss. C. R. R.	7-8	25-30
Quinton, Miss.	Miss. C. R. R.	7-8	25-35
Roxie, Miss.	Miss. C. R. R.	7-8	25-35
Sharon, Tenn.	I. C. R. R.	11	60
Silver Creek, Miss.	Miss. C. R. R.	7	25
Sontag, Miss.	Miss. C. R. R.	7	25
Sumbax, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Sumrall, Miss.	Miss. C. R. R.	7-8	25-30
Tyertown, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Vaughts, Miss.	F. C. & G. R. R.	8-12	45-95
Washington, Miss.	Miss. C. R. R.	8	35
West Columbia, Miss.	F. C. & G. R. R.	7-8-11-12	10-45-75-95
Williams, Miss.	Miss. C. R. R.	8	35
Zetus, Miss.	Miss. C. R. R.	8	35

Index of points of destination to which specific rates are published herein

Station	Page No.	Item No.
Birmingham, Ala.	11	60
Brookhaven, Miss.	7-11	10-75
Cairo, Ill.	11	65
Greenwood, Miss.	11	55
Grenada, Miss.	11	55
Hardeeville, Miss.	7-11	10-75
Jackson, Miss.	7-8-11	IC-15-30-35-55-70-75-80
Kosciusko, Miss.	7-11	15-75
Laurel, Miss.	8-12	40-45-90-95
Magnolia, Miss.	7-11	10-75
Memphis, Tenn.	7-11	20-85
Newton, Miss.	7	25

APPLICATION OF TARIFF**List of Stations To and From which Distance Rates shown in Section No. 1 apply**

The distance rates provided in Section No. 1 apply between stations on the following railroads for Single or Joint line hauls over such railroads:

Illinois Central Railroad (Southern Lines), except as provided in Note "C" below.

The Yazoo and Mississippi Valley Railroad (except stations in Louisiana on the Shreveport District west of Mississippi River).

Gulf and Ship Island Railroad.

as shown in:

I. C. R. R. Tariff 36-E, I. C. C. No. 7614 (see Exceptions in Note "C" below).

The Y. and M. V. R. R. Tariff 30-C, I. C. C. No. 7506 (except stations in Louisiana on the Shreveport District west of Mississippi River).

G. & S. I. R. R. Tariff 34-D, I. C. C. No. 1188.

NOTE C.—The provisions of Section No. 1 apply between stations on the Birmingham District of the Illinois Central Railroad only as follows:

(a) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive.

(b) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive.

and

Birmingham, Ala., and points in the Birmingham, Ala., Switching District.

(c) Between Stations, Haleyville, Ala., to Corinth, Miss., inclusive; also Birmingham, Ala. and points in the Birmingham, Ala., Switching District.

and

Stations on Illinois Central Railroad other than Birmingham District, Corinth, Miss., to Birmingham, Ala., inclusive.

List of Stations To and From which Distance Rates shown in Section No. 2 apply

The distance rates provided in Section No. 2 apply from, to and between stations on the following railroads for single and joint line hauls over such railroads: (See Note 1).

Illinois Central Railroad (Southern Lines), except as provided in Notes "A" and "B" below.

The Yazoo and Mississippi Valley Railroad (except stations in Louisiana on the Shreveport District west of Mississippi River).

Gulf and Ship Island Railroad.

as shown in:

I. C. R. R. Tariff 36-E, I. C. C. No. 7614 (see Exceptions in Notes "A" and "B" below).

The Y. and M. V. R. R. Tariff 30-C, I. C. C. No. 7506, (except stations in Louisiana on the Shreveport District west of Mississippi River).

G. & S. I. R. R. Tariff 34-D, I. C. C. No. 1188.

NOTE.—The provisions of Section No. 2 apply to, from or between stations in the Birmingham District of the Illinois Central Railroad only as follows:

(a) Between stations, Haleyville, Ala., to Corinth, Miss., inclusive.

(b) Between stations, Haleyville, Ala., to Corinth, Miss., inclusive.

and

Birmingham, Ala. (see Note "B"), and points in the Birmingham, Ala., Switching District.

(c) Between stations, Haleyville, Ala., to Corinth, Miss., inclusive; also Birmingham, Ala. (see Note "B") and points in the Birmingham, Ala., Switching District.

and

Stations on Illinois Central Railroad other than Birmingham District, Corinth, Miss., to Birmingham, Ala., inclusive. (See Note "B").

NOTE B.—(a) Rates published in Section No. 2 on Cottonseed to Birmingham, Ala., will not apply when shipments of Cotton-

seed Products are destined to stations in States of Alabama (except stations on Illinois Central R. R.), Florida, Georgia, North Carolina and South Carolina. Rates will apply to stations on Illinois Central R. R. in Alabama when routed via Illinois Central R. R., direct.

(b) On Cottonseed Products from Birmingham, Ala., destined to stations in states other than enumerated in paragraph (a), rates published in Section 2 herein, on Cottonseed to Birmingham, Ala., will apply only when shipments of Cottonseed Products from Birmingham, Ala., are routed over the rails of the Illinois Central R. R., through or via Corinth, Miss.

(c) When shipments are not handled in accordance with paragraphs (a) and (b), local rates will be applied on Cottonseed from point of origin to Birmingham, Ala., and no readjustment will be made under the provisions of Section No. 2 of this Tariff.

NOTE 1.—On Cottonseed originating at stations on the Mississippi & Skuna Valley Railroad shipped to Greenwood, Miss., for cracking, crushing, delinting or other manufacturing processes under the rules of this tariff, and shipment of the product thereof (as defined in Rule 30 herein), via The Y. & M. V. R. R., rate of 8 cents per 100 pounds to Greenwood, Miss., shown on page 10 herein will be applied.

RULES AND REGULATIONS

Rule 1—Handling Remnant Shipments

(Not applicable on traffic having origin, destination and entire transportation within States of Alabama or Mississippi, as case may be)

One remnant shipment of cottonseed, may be forwarded from each warehouse by one shipper at the end of each shipping season on basis of carload rate at actual weight, subject to a minimum weight of 20,000 pounds.

Rule 5—Changes in Rates and Rules

In the event changes are made in Rates and Rules published herein after the Cottonseed is shipped from point of origin, the Rates and Rules in effect on date of shipment from points of origin will apply.

Rule 10—Terminal, Transit and Other Privileges and Charges

In the absence of specific provision to the contrary, shipments transported under this Tariff will be subject to all terminal charges and allowances relating to: Arbitraries, Car Rentals, Car Service, Demurrage, Diversion, Drayage, Grading, Handling, Inspection,

Mileage on Private Cars, Milling, Reconsignment, Storage, Switching, Transit Privileges, Wharfage, together with all other privileges, charges and rules which in any way increase or decrease the amount to be paid on any shipment between points named in this Tariff or as same may be amended, or which increase or decrease the value of the service to the shipper, as provided in tariffs published and lawfully on file with the Interstate Commerce Commission.

In the absence of specific provisions in this Tariff to the contrary, property destined to points beyond the tracks of the Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad and/or Gulf and Ship Island Railroad, is entitled to such privileges and will be subject to such charges as provided in tariffs, and supplements thereto, published and lawfully on file with the Interstate Commerce Commission of the carriers granting the privilege and performing the service.

Rule 15—Application of Rates from Intermediate Points

Subject to the provisions of Notes 1, 2, 3 and 4 below, from any point of origin from which a commodity rate on a given article to a given destination and via a given route is not named in this Tariff, which point is intermediate to a point from which a commodity rate on said article is published in this Tariff via a route through the intermediate point over which such commodity rate applies to the same destination, apply from such intermediate point to such destination and via such route the commodity rate in this Tariff on said article from the next point beyond from which a commodity rate is published herein on that article to the same destination via the same route.

NOTE 1.—When by reason of branch or diverging lines, there are two or more "next beyond" points, apply the rate from the next point beyond (in this Tariff) which, on that article to the same destination via the same route, results in the lowest charge.

NOTE 2.—If the intermediate point is located between two points from which commodity rates on the same article via the same route are published in this Tariff, apply via that route from the intermediate point the rate from the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point from which the lowest charge is applicable.

NOTE 3.—If the class rate on the same article via the same route from the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4.—If there is, in any other tariff, a commodity rate on the same article from the intermediate point applicable over the same route to the same destination, the provisions of this rule are not applicable from such intermediate origin point.

Rule 20—Application of Rates to Intermediate Points

Subject to the provisions of Notes 1, 2, 3 and 4 below, to any point of destination to which a commodity rate on a given article from a given point of origin and via a given route is not named in this Tariff, which point is intermediate to a point to which a commodity rate on said article is published in this Tariff via a route through the intermediate point over which such commodity rate applies from the same point of origin, apply to such intermediate point from such point of origin and via such route the commodity rate published herein on that article from the same point of origin via the same route.

NOTE 1.—When, by reason of branch or diverging lines, there are two or more "next beyond" points, apply the rate to the next point beyond (in this tariff) which, on that article from the same point of origin via the same route, results in the lowest charge.

NOTE 2.—If the intermediate point is located between two points to which commodity rates on the same article via the same route are published in this Tariff, apply via that route to the intermediate point the rate to the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point to which the lowest charge is applicable.

NOTE 3.—If the class rate on the same article via the same route to the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4.—If there is, in any other tariff, a commodity rate on the same article to the intermediate destination point applicable over the same route from the same point of origin, the provisions of this rule are not applicable to such intermediate destination point.

Rule 22—Departures from Fourth Section

This schedule contains rates that are departures from the terms of the amended Fourth Section of the Interstate Commerce Act, under authority of the Interstate Commerce Commission Fourth Section Order No. 13050 of March 8, 1938.

The increase in rates and charges provided herein which result in departures from outstanding orders of the Interstate Commerce Commission is established under authority of the Interstate Com-

merce Commission in Fifteen Percent Case of 1937-1938, Ex Parte 123, dated March 8, 1938.

Rule 25—Joint Rates

The joint rates published herein, includes all charges for switching, drayage or other transfer services at intermediate interchange points on shipments handled through and not stopped for special services at such intermediate interchange points.

Rule No. 27—Reference to Items, Notes, Rules, Tariffs, Etc.

Where cross reference is made in this tariff to items, notes, rules, tariffs, etc., such references are continuous, and include supplements to or successive issues to such tariffs; also successive issues of such items, notes, rules, etc.

Rule No. 28—Definition of Intrastate Traffic

Where reference is made herein to intrastate traffic it means, traffic having origin, destination and entire transportation within the state in which both origin and destination are located.

SECTION NO. 1

(For Application, see page 4 herein)

Rates of Freight in Cents Per Ton, 2,000 Pounds, Applying on Cottonseed,¹ Carloads, Minimum Weight 30,000 Pounds

Distance rates shown below are local rates and apply between stations, as provided in Section No. 1 on page 4 herein.

(Distance rates do not apply to or from Cairo, Metropolis, Ill., Evansville, Ind. or Helena, Ark. For distance rates to or from Cairo, Metropolis, Ill., Evansville, Ind., and Helena, Ark., see basis provided in Item 5)

Distance or Mileage Commodity rates shown in Section No. 1 may be used only when no specific through commodity rates from and to the same stations have been provided. When governed by a Classification which also contains Distance or Mileage commodity rates they will take precedence over the distance or mileage commodity rates in such Classification.

¹ Rates also apply on Alabama or Louisiana or Mississippi Intrastate traffic (as case may be). Issued under authority of A. P. S. C. Special Approval No. 5990 of July 11, 1934, I. P. S. C. No. 6054-B of July 13, 1934, and Mississippi Railroad Commission of July 7, 1934.

Distance in miles	In cents per ton, 2,000 pounds	Distance in miles	In cents per ton, 2,000 pounds
5 and under	84	95 and over 95	168
10 and over 5	84	100 and over 95	168
15 and over 10	84	110 and over 100	180
20 and over 15	105	120 and over 110	180
25 and over 20	105	130 and over 120	180
30 and over 25	105	140 and over 130	210
35 and over 30	105	150 and over 140	210
40 and over 35	126	160 and over 150	210
45 and over 40	126	170 and over 160	221
50 and over 45	126	180 and over 170	221
55 and over 50	126	190 and over 180	221
60 and over 55	147	200 and over 190	221
65 and over 60	147	210 and over 200	231
70 and over 65	147	220 and over 210	232
75 and over 70	147	230 and over 220	232
80 and over 75	168	240 and over 230	263
85 and over 80	168	250 and over 240	273
90 and over 85	168	260 and over 250	273

TABLE OF DISTANCES

For Distances to use in connection with this Tariff, refer to Illinois Central Railroad Tariff No. 36-E, I. C. C. No. 7614, The Yazoo and Mississippi Valley Railroad Tariff No. 30-C, I. C. C. No. 7506 (stations east of the Mississippi River only), and Gulf and Ship Island Railroad Tariff No. 34-D, I. C. C. No. 1188.

Item 5—Basis for Freight To and From Cairo, Metropolis, Ill., Evansville, Ind., and Helena, Ark.

To make rates to or from—	Add to rates to or from—	In cents per ton 2,000 pounds
Cairo, Ill.	East Cairo, Ky.	42
Evansville, Ind.	Henderson, Ky.	42
Helena, Ark.	Trotters Point, Miss.	42
Metropolis, Ill.	Paducah, Ky.	42

Item 10—Rates of Freight in Cents per Ton 2,000 Pounds, Cottonseed, Carloads, Minimum Weight 30,000 Pounds

(Applicable only via Route No. 2)

From—	To—			
	Magnolia, Miss.	Brookhaven, Miss.	Hazelhurst, Miss.	Jackson, Miss.
F. C. & G. R. R.				
Barto, Miss.	116	156	179	200
Boardman, Miss.	116	137	158	200
Columbia, Miss.	158	179	200	221
Dave, Miss.	137	158	179	221
Hamage, Miss.	158	179	200	221
Jennings, Miss.	116	137	158	200
Kioto, Miss.	137	158	179	200
Knoxo, Miss.	137	158	179	221
Kokomo, Miss.	137	179	200	221
Mesa, Miss.	137	158	179	200
Neb, Miss.	158	179	200	221
Pitta, Miss.	116	137	158	200
Sumbax, Miss.	158	179	200	221
Tyertown, Miss.	137	158	179	221
West Columbia, Miss.	158	179	200	221

Rates of Freight in Cents per 100 Pounds, Except as Otherwise Provided Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds

Item No.	From—	To—	Rate (in cents per ton 2,000 pounds)	Route
118	C. & C. R. R. Carthage, Miss.	Jackson, Miss. (Kosciusko, Miss.)	9 10	3
118	C. & C. R. R. Edinburg, Miss.	Jackson, Miss. (Kosciusko, Miss.)	9 10	3
30	G. M. & N. R. R. Jackson, Tenn.	Memphis, Tenn.	168	8
125	Miss. C. R. R. Bassfield, Miss. Buck, Miss. Eddleston, Miss. Meadville, Miss. Prentiss, Miss. Quentin, Miss. Roxie, Miss. Silver Creek, Miss. Sontag, Miss. Sumrall, Miss.	Newton, Miss.	12 12 12 12 12 12 13 11 11 13	9 9 9 9 9 9 9 9 9 9

¹ Applicable only on Intrastate Traffic.

For Explanation of Route Nos., see page 12.

Rates of Freight in Cents Per Ton, 2,000 Pounds, Except As Noted Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds

Item No.	From—	To—	Rate (in cents per 100 pounds)	Route
	Miss. C. R. R.			
30	Bassfield, Miss.		210	10, 11, 12
	Carson, Miss.		210	10, 11, 12
	Prentiss, Miss.		210	10, 11, 12
	Sunnall, Miss.		221	10, 11, 12
	Miss. C. R. R.			
	Brookhaven, Miss.		8.0	10
	Bude, Miss.		9.5	10
	Carlos, Miss.		8.0	10
	Celeo, Miss.		9.0	10
	Cobbs, Miss.		8.0	10
	Cranfield, Miss.		10.5	10
	Eddington, Miss.		9.0	10
	Fenwick, Miss.		10.5	10
	Kirby, Miss.		10.0	10
	Leesdale, Miss.		10.5	10
35	Lucien, Miss.	Jackson, Miss.	9.0	10
	McCall, Miss.		9.0	10
	Meadville, Miss.		9.5	10
	Mike Branch, Miss.		9.5	10
	Monroe, Miss.		9.5	10
	Quentin, Miss.		9.0	10
	Roxie, Miss.		10.0	10
	Washington, Miss.		11.0	10
	Williams, Miss.		8.5	10
	Zetus, Miss.		8.0	10
	C. & C. R. R.			
40	Carthage, Miss.	Laurel, Miss.	221	13
	Edinburg, Miss.		221	13
	F. C. & G. R. R.			
	Barto, Miss.		242	14
	Beardens, Miss.		242	14
	Connelly, Miss.		242	14
	Davo, Miss.		242	14
	Fernwood, Miss.		242	14
	Hannan, Miss.		242	14
	Kioto, Miss.		242	14
	Knox, Miss.		242	14
45	Kokomo, Miss.	Laurel, Miss.	221	14
	Lovell, Miss.		221	14
	Mesa, Miss.		242	14
	Neh, Miss.		221	14
	Parsons, Miss.		242	14
	Purdue, Miss.		221	14
	Sumbax, Miss.		221	14
	Tylertown, Miss.		242	14
	Vaughts, Miss.		242	14
	West Columbia, Miss.		221	14

¹ Applicable only on Intrastate Traffic.

For Explanation of Route Nos., see page 12.

SECTION NO. 2

Rule 30—Application

- (a) The rates and rules, as authorized in Section No. 2 apply on Cottonseed in carloads to and from stations shown under

"List of Stations To and From Which Rates Shown in Section No. 2 Apply," and in miscellaneous items on pages 11 and 12 moved solely (see Note 1) via the Illinois Central R. R., The Yazoo and Mississippi Valley R. R. and/or the Gulf and Ship Island R. R. from origin to manufacturing or mill stations for cracking, crushing, delinting or other manufacturing processes, and the subsequent shipment of the products as described in Rule No. 32, in carload, or less than carload quantities, from the manufacturing or mill station via Illinois Central R. R., The Yazoo and Mississippi Valley R. R. and/or Gulf and Ship Island R. R. (See Exception.)

(b) The rates shown in Section No. 2 must not be used in waybilling shipments. All shipments must be waybilled at full local or joint rates applicable to manufacturing or mill station proper, in effect on date of shipment from point of origin and freight charges will be collected by the agent at such rates upon delivery.

(c) Upon evidence, as provided for herein, of shipment of product of Cottonseed, as described in Rule No. 32, in carload or less than carload quantities, via Illinois Central R. R., The Yazoo and Mississippi Valley R. R. and/or the Gulf and Ship Island R. R. at full published tariff rates applying from manufacturing or mill station, the freight charges on Cottonseed to the manufacturing or mill station will be reduced to the basis of rates, shown on pages 10, 11, and 12 herein, through the Freight Claim Department. (See Exception.)

For every 100 pounds of weight represented by paid inbound freight bills on Cottonseed, surrendered for refund, there must be furnished evidence of shipment from the mill station of 93 pounds of Cottonseed Products named in Rule No. 32. When paid inbound freight bills are surrendered at this ratio, the net rates shown on pages 10, 11, and 12 herein shall be applied to 93 per cent of the weight of the inbound Cottonseed. In event there is a deficit between 93 percent of actual weight of Cottonseed and minimum weight of 30,000 pounds, such deficit shall be charged for on basis of carload rate lawfully applicable on cottonseed when for disposition other than for manufacture and reshipment. In no case shall total charge be less than 30,000 pounds, figured at applicable net rate shown on pages 10, 11, and 12 herein.

Exception.—Rates provided in this Section do not apply on traffic reshipped to destinations in States of Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Oregon, Wisconsin, Washington, and Wyoming via routes through the States of Arkansas, Louisiana (west of Mississippi River), or Texas.

Rule 32—Outbound Products

Rates and rules in Section 2 apply in connection with following products shipped from manufacture or mill station:
 Cottonseed cake or meal (including crushed or ground cake or screenings).

Cottonseed hull fibre or shavings (other than bleached or dyed).

Cottonseed hulls, not ground.

Cottonseed hulls, ground (Cotton seed hull bran).

Cottonseed hull shavings pulp¹ and cotton linters pulp.

Cotton linters or regins (other than bleached or dyed).

Cottonseed oil, liquid, or solidified (hydrogenated).

¹ Oil, cooking, and/or salad (made wholly of cottonseed oil).

Note 1.—On Cottonseed originating at stations on the Mississippi & Skuna Valley R. R. shipped to Greenwood, Miss., for cracking, crushing, delinting or other manufacturing processes under the rules of this tariff, and shipment of the product thereof, as described in Rule No. 32, via The Y. and M. V. R. R., rate of 8 cents per 100 pounds to Greenwood, Miss., shown on page 11 herein, will be applied.

¹ Cottonseed oil foots or sediment.

Cotton motes or cotton sweepings (cotton refuse from cottonseed oil mills).

¹ Vegetable oil shortening in semi-solid form or plastic form (made wholly of cottonseed oil).

Rule 35—Time Limit of Freight Bills

Shipments of manufactured product, as described in Rule No. 32, in carload or less than carload quantities, must be made within one year from the date of paid freight bill covering inbound movement of Cottonseed.

Rule 40—Method of Settlement

(a) Cottonseed intended for handling under Section No. 2 must be consigned locally to the manufacturing or mill station.

(b) Bills of lading for the product, as described in Rule No. 32, carload or less than carload quantities, shipped from the manufacturing or mill station, shall be issued by the agent at such station at rates applicable on outbound commodities from such station proper to final destination.

(c) The application of rates on Cottonseed, inbound, as authorized in Section No. 2 will be effected by claim. Claims must

¹ Applicable only at Brookhaven, Miss.; Hattiesburg, Miss.; Helena, Ark.; Jackson, Miss.; Memphis, Tenn.; and New Orleans, La.

be supported with copies of the outbound bills of lading or other satisfactory evidence of reshipment from the manufacturing or mill station, together with statements showing movement of the Cottonseed on which rates are applicable inbound and shipments of the outbound product from the manufacturing or mill station, such claims to be tendered to the local Agent of the I. C. R. R., The Y. and M. V. R. R. and/or G. & S. I. R. R. (as the case may be), who will attach copy of outbound waybills from manufacturing or mill station together with original inbound paid freight bills and reshipping certificate prescribed in Rule 45 herein

Rule 45—Certificate to be Attached to Claims

Claims must be accompanied by certificate in following form:
Tender is hereby made to the Illinois Central Railroad Co., The Yazoo and Mississippi Valley Railroad Co., and/or Gulf and Ship Island Railroad Co. (as the case may be), of paid freight bills numbered and dated as specified below for the purpose of securing application of rates as provided in I. C. R. R. Co., The Y. and M. V. R. R. Co., and G. & S. I. R. R. Co. Tariff 2912-Q, I. C. C. No. 8206, on the commodity covered thereby. This tender is made in good faith and with the specific guarantee on our part that such rates may legally be applied under the rules of said railroads as published in their Tariff No. 2912-Q, I. C. C. No. 8206, issued July 19, 1938, or supplements thereto. Paid Freight Bills _____ Pro. No. _____ Date _____ Manufacturing Point _____

(Signature of Claimant)

Rule 50—Supervision and Inspection

The traffic handled at rates and under rules shown in Section No. 2 herein shall be subject to supervision of an inspector or inspectors who shall have access to records of railroads and of shippers for the purpose of determining accuracy of documents submitted in support of claims for protection of rates shown on pages 10, 11, and 12 herein.

Among other duties, it shall be the duty of the inspector to:

- (a) Check, compare, and verify inbound road's freight bills.
- (b) Check records of railroads and shippers for the purpose of determining actual characters and weight of outbound shipments, in order that correctness of claims may be fully shown.

Rule 55—Shipments From Connecting Lines

The rates published in Section No. 2 herein also apply from junctions of the Illinois Central Railroad, The Yazoo and Mississippi Valley Railroad, Fernwood, Columbia & Gulf Railroad, and/or Gulf and Ship Island Railroad with connecting lines, on shipments originating at points on connecting lines from which no through net rates are published, subject to the rules herein.

Rule 60—Validity of Paid Freight Bills Reshipping Certificate

In instances where shipper at transit point, for commercial reasons, forwards shipments from transit point in name of another party, firm, or corporation, the actual transit shipper must add to reshipping certificate quoted in Rule 45, herein, the following:

For commercial reasons the shipment from _____
(insert name of transit point), in car _____ (insert car initial and number), shows consignor as follows:
_____ (Signature of Shipper)

Rule 65—Change of Ownership of Cottonseed

A transfer by mills of paid freight bills covering cottonseed will be permitted only where commodity is also transferred by bona fide sale. A certificate to this effect shall be made in following form on the face of the freight bill:

"This is to certify that there has been a bona fide sale to the undersigned of the commodity covered by this freight bill."

Signed _____
Dated _____

Rates of Freight Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds

(Distance rates do not apply to or from Cairo, Metropolis, Ill., Evansville, Ind., or Helena, Ark. For distance rates to or from Cairo, Metropolis, Ill., Evansville, Ind., and Helena, Ark., see basis provided in Item 50.)

Distance or Mileage Commodity rates shown in Section 2 may be used only when no specific through commodity rates from and to the same points have been provided. When governed by a Classification which also contains Distance or Mileage commodity rates they will take precedence over the distance or mileage commodity rates in such Classification.

Distances	In cents per 100 pounds	Distances	In cents per 100 pounds
10 miles and less	2.75	100 miles and over 85	7.0
15 miles and over 10	3.25	130 miles and over 100	7.5
25 miles and over 15	3.75	150 miles and over 130	8.0
35 miles and over 25	4.25	170 miles and over 150	8.5
45 miles and over 35	4.75	190 miles and over 170	9.0
55 miles and over 45	5.5	210 miles and over 190	9.5
70 miles and over 55	6.0	230 miles and over 210	10.0
85 miles and over 70	6.5	250 miles and over 230	10.5

Table of Distances

For Distances to use in connection with this Tariff, refer to Illinois Central Railroad Tariff No. 36-E, I. C. C. No. 7614, The Yazoo and Mississippi Valley Railroad Tariff No. 30-C, I. C. C. No. 7506 (stations east of Mississippi River only), and Gulf and Ship Island Railroad Tariff No. 34-D, I. C. C. No. 1,98.

Item 50—Basis for Freight to and From Cairo, Metropolis, Ill., Evansville, Ind., and Helena, Ark.

To make rates to or from—	Add to rates to or from—	In cents per 100 pounds
Cairo, Ill.	East Cairo, Ky.	2
Evansville, Ind.	Henderson, Ky.	2
Helena, Ark.	Trotters Point, Miss.	2
Metropolis, Ill.	Paducah, Ky.	2

Rates of Freight in Cents per 100 Pounds Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds

Item	From—	To—	Rates	Route No.
	M. & S. V. R. R.			
55	Benwood, Miss.	Grenada, Miss.	8.0	5
	Bruce, Miss.	Greenwood, Miss.	8.0	6
	Guma, Miss.	Jackson, Miss.	10.5	7
	Pittman, Miss.			
	I. C. R. R.			
60	Bradford, Tenn.		11.0	
	Grand Junction, Tenn.		11.0	
	Greenfield, Tenn.		11.0	
	Hickory Valley, Tenn.	Birmingham, Ala.	11.0	
	Martin, Tenn.		12.0	
	Middleburg, Tenn.		11.0	
	Sharon, Tenn.		11.0	
	I. C. R. R.			
65	Mound City, Ill.	Cairo, Ill.	3.25	1
	C. & C. R. R.			
70	Carthage, Miss.	Jackson, Miss.	7.5	3
	Edinburg, Miss.	Kosciusko, Miss.	8.0	3
		Jackson, Miss.	7.5	3
		Kosciusko, Miss.	8.0	3

¹ Applicable only on Intra-state Traffic.

Item 75—Rates of Freight in Cents per 100 Pounds Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds

From—	To—				
	Magnolia, Miss.	Brook- haven, Miss.	Hazlehurst, Miss.	Jackson, Miss.	Route No.
F. C. & G. R. R.					
Barto, Miss.	4.75	6.5	7.0	8.0	2
Beardens, Miss.	4.75	6.5	6.5	8.0	2
C.umbia, Miss.	6.5	7.0	7.5	8.5	2
Dove, Miss.	5.5	6.5	7.0	8.5	2
Harmage, Miss.	6.5	7.0	7.5	8.5	2
Jennings, Miss.	4.25	6.0	6.5	8.0	2
K. sto, Miss.	5.5	6.5	7.0	8.0	2
Know, Miss.	5.5	6.5	7.5	8.5	2
Kokomo, Miss.	5.5	7.0	7.5	8.5	2
Moss, Miss.	5.5	6.5	7.0	8.0	2
Neb, Miss.	6.5	7.0	7.5	8.5	2
Pitts, Miss.	4.25	6.0	6.5	7.5	2
Sumbax, Miss.	6.5	7.0	7.5	8.5	2
Tylertown, Miss.	5.5	6.5	7.0	7.5	2
West Columbia, Miss.	6.5	7.0	7.5	8.5	2

Rates of Freight in Cents per 100 Pounds, Except as Otherwise Provided Applying on Cottonseed, Carloads, Minimum Weight 30,000 Pounds

Item No.	From—	To—	Rate (in cents per ton of 2,000 pounds)	Route No.
G. & S. L. R. R.				
80	Columbia, Miss.	Jackson, Miss.	16.5	7
G. M. & N. R. R.				
85	Jackson, Tenn.	Memphis, Tenn.	126	8
C. & C. R. R.				
90	Carthage, Miss. Edinburg, Miss.	Laurel, Miss.	{ 180 180	13 13
F. C. & G. R. R.				
	Barto, Miss.		210	14
	Beardens, Miss.		210	14
	Conery, Miss.		210	14
	Dove, Miss.		210	14
	Fernwood, Miss.		210	14
	Harmage, Miss.		180	14
	Kloto, Miss.		210	14
	Know, Miss.		210	14
	Kokomo, Miss.		180	14
95	Lovell, Miss.	Laurel, Miss.	180	14
	Moss		210	14
	Neb, Miss.		180	14
	Parsons, Miss.		210	14
	Perdue, Miss.		180	14
	Sumbax, Miss.		180	14
	Tylertown, Miss.		210	14
	Vaughts, Miss.		210	14
	West Columbia, Miss.		180	14

1 Applicable only on Interstate Traffic.

2 Not subject to Rules Nos. 13 and 20 at intermediate points of origin and destination.

For Explanation of Route Nos., see page 12.

Explanation of Routes

Route No.	Route
1	Via I. C. R. R. direct.
2	Via F. C. & G. R. R., Fernwood, Miss., and I. C. R. R.
3	Via C. & C. R. R., Canton, Miss., and I. C. R. R.
5	Via M. & S. V. R. R., Bruce Jct., Miss., and I. C. R. R.
6	Via M. & S. V. R. R., Bruce Jct., Miss., I. C. R. R., Grenada, Miss., and The Y. and M. V. R. R.
7	Via G. & S. I. R. R. direct.
8	Via G. M. & N. R. R., Dyersburg, Tenn., and I. C. R. R.
9	Via Miss. C. R. R., Brookhaven, Miss., I. C. R. R., Jackson, Miss., and The Y. and M. V. R. R.
10	Miss. Cent. R. R., Brookhaven, Miss., I. C. R. R.
11	Miss. Cent. R. R., Silver Creek, Miss., G. & S. I. R. R.
12	Miss. Cent. R. R., Hattiesburg, Miss., G. & S. I. R. R.
13	C. & C. R. R., Canton, Miss., I. C. R. R., Jackson, Miss., G. & S. I. R. R.
14	F. C. & G. R. R., Columbia, Miss., G. & S. I. R. R.

17 In United States District Court

[Title omitted.]

[File endorsement omitted.]

Answer of Interstate Commerce Commission

Filed April 21, 1942

Now comes the Interstate Commerce Commission, one of the defendants above named, by its counsel, and in answer to the complaint in this case respectfully represents:

1. The Commission admits the averments of paragraphs 1, 2, 3, 4, and 5 of the complaint.
2. The Commission denies the averments of paragraphs 6 and 7 of the complaint.

3. In further answer to the averments of the complaint, the Commission alleges that the plaintiff was accorded the full hearing provided for by the Interstate Commerce Act; that in said hearings testimony and other evidence bearing upon the matters covered in its said reports and orders was submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of plaintiff by its counsel; that at said hearing and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of the parties to the proceeding before the Commission by their respective counsel, including the particular questions raised by plaintiff in this suit, whereupon the Commission determined said matters and entered and served upon all the parties to said proceeding, including the plaintiff herein, its said reports and orders of May 3, 1940, and January 3, 1942; that said reports and orders included the Commission's findings of fact, conclusions,

and requirements in the premises; and that, upon the evidence aforesaid, and as shown in and by said reports, the Commission made the findings and stated the conclusions upon which its orders were based.

The Commission further alleges that said order of January 3, 1942, was not made or entered either arbitrarily or unjustly or contrary to the relevant evidence or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it; and the Commission denies each of and all the allegations to the contrary contained in the complaint.

Except as herein expressly admitted, the Commission denies each of and all the allegations contained in the complaint, insofar as they conflict either with the allegations herein or with the statements or conclusions of fact included in said report and order of January 3, 1942, referred to and made a part of the complaint as Exhibit A, which report and order is hereby referred to and made a part hereof.

All of which matters and things the Commission is ready to aver, maintain, and prove, and hereby prays that said complaint be dismissed.

INTERSTATE COMMERCE COMMISSION,
By (s) DANIEL H. KUNKEL, Attorney.

DANIEL W. KNOWLTON,
Chief Counsel,
Of Counsel.

19 [Duly sworn to by J. Haden Allredge; jurat omitted in printing.]

20 In United States District Court

[Title omitted.]

Answer of defendant railroad companies

Come now the Illinois Central Railroad Company, and J. M. Kurn and John G. Lonsdale, Trustees, St. Louis-San Francisco Railway Company, Debtor, defendants answering the original complaint herein and say:

1. Defendants herein named admit the allegations in the first paragraph of the original complaint.
2. Defendants herein named admit the allegations in the second paragraph of the original complaint.
3. Defendants herein named admit the allegations in the third paragraph of the original complaint.

4. Defendants herein named admit the allegations in the fourth paragraph of the original complaint.

5. Defendants herein named admit the allegations in the original complaint contained in paragraph five, except those allegations and statements hereinafter specifically denied, to wit:

"The tariff in question, Exhibit 'C' hereto and made a part hereof, provides for the equalization of its outbound rates with those of plaintiff's intervening trunk-line competitors. The tariff provision does not affect the amount of rates paid for the inbound movement of cottonseed to the mill point. Its effect is to reduce the outbound date on cottonseed products to meet competitive condition created by so-called 'cut-back rates' of trunk line competitors, which 'cut-back' rates tend to hold the outbound movement of cottonseed products from mill points to the lines of said competitors. The facts with reference to a typical movement is quoted in Exhibit 'A' at pages 4 and 5 thereof."

6. The defendants herein named deny each and every
21 allegation in paragraph six of the original complaint.

7. The defendants herein named deny each and every allegation in paragraph seven of the original complaint.

8. In further answer to the averments of the complaint, the defendants, the Illinois Central Railroad Company, and J. M. Kurn and John G. Lonsdale, Trustees, St. Louis-San Francisco Railway Company, Debtor, alleges that the plaintiff was accorded proper notice and a full opportunity to be heard, that the order complained of was entered by the Interstate Commerce Commission upon proper evidence that the resulting order is reasonable and lawful.

Wherefore, the defendants herein named prays judgment that the original complaint of the plaintiff be dismissed.

ILLINOIS CENTRAL RAILROAD COMPANY,
J. M. KURN AND JOHN G. LONSDALE,
TRUSTEES, ST. LOUIS-SAN FRANCISCO
RAILWAY COMPANY, DEBTOR,
By (s) JOHN E. McCULLOUGH, Their Attorney.

[*Duly sworn to by John E. McCullough; jurat omitted in printing.*]

23169

INTERSTATE COMMERCE COMMISSION

Investigation and Suspension Docket No. 4599

ALLOWANCES ON COTTONSEED AT COLUMBUS & GREENVILLE RAILWAY POINTS

Submitted October 4, 1939. Decided May 3, 1940

Proposed allowances by the Columbus & Greenville Railway Company to shippers who use its line for the out-bound movement of cottonseed products, manufactured from cottonseed moving into mill points by lines of other rail carriers, found unlawful. Suspended schedules ordered canceled. Respondent cited to show cause why its tariff I. C. C. No. 81, containing provisions similar to those in the suspended tariff, should not be amended so as to eliminate such provisions.

R. C. Stovall and Z. P. Hawkins for respondent.

M. G. Roberts, Rufus Creekmore, and Nathan S. Sherman for protestants.

REPORT OF THE COMMISSION

DIVISION 3, COMMISSIONERS MAHAFFIE, MILLER AND ALLDREDGE.

BY DIVISION 3:

Exceptions to the report proposed by the examiner were filed by respondent, and the proceeding was orally argued. Our conclusions differ in certain respects from those recommended in the proposed report.

By schedules filed to become effective March 5, 1939, the Columbus & Greenville Railway Company, sole respondent herein, proposes to make certain allowances to shippers who use its line for the out-bound movement of cottonseed products from Columbus, Greenville, Greenwood, Indianola, Moorhead, and West Point, Miss. Upon protest of the Mobile and Ohio Rail Road Company (C. E. Ervin and T. M. Stevens, receivers) and the St. Louis-San Francisco Railway Company (J. M. Kurn and John G. Lonsdale, trustees), hereinafter called the Mobile & Ohio and the Frisco, respectively, operation of the schedules was suspended until October 5, 1939. Respondent has further postponed the effective date pending disposition of this proceeding. Rates and allowances will be stated in cents per 100 pounds.

Respondent's line extends from Columbus to Greenville, 168 miles. It connects with lines of the Southern Railway Company, the Mobile & Ohio, and the Frisco at Columbus, with lines of the Illinois Central Railroad Company and the Mobile & Ohio at West Point, and with lines of The Yazoo and Mississippi Valley Railroad Company at Greenville, Greenwood, and Moorhead. Cottonseed mills are located at each of these junctions and are served by respondent and the other lines. The record indicates that the mill at Greenwood is reached by respondent's rails exclusively, and that in-bound and out-bound traffic is switched between the mill and the rails of the Yazoo & Mississippi Valley by respondent. The record does not show, however, what respondent's switching charge is for this service or whether such charge is absorbed by the Yazoo & Mississippi Valley. There is also a mill at Indianola, which point is local to the Columbus & Greenville. Lines of the Illinois Central and the Gulf, Mobile and Northern Railroad Company also intersect respondent's line at Winona and Mathiston, Miss., respectively.

The suspended schedules are contained in respondent's tariff I. C. C. No. 83, which, but for the suspension, would have canceled its tariff I. C. C. No. 81 containing similar provisions. The latter tariff was neither protested nor suspended, and it became effective October 16, 1938. It was subsequently criticized by our Bureau of Traffic as being unlawful in certain respects, and respondent was requested to correct it. The schedules now under investigation were thereafter filed. The suspension of these schedules left I. C. C. No. 81 in effect, and it has not since been changed. The suspended tariff differs from the prior tariff only as to form. The result intended to be accomplished by both is the same, namely, the payment by respondent of specified allowances, or refunds, to shippers who use its line for the out-bound movement of cottonseed products. The responsibility for these tariffs rests solely on the Columbus & Greenville, no other carrier having concurred in their provisions.

Tariff I. C. C. No. 83 provides that when cottonseed, in car-loads, is moved by rail into any of the above-mentioned manufacturing or mill points, at the full local or joint rates applying thereto, for cracking, crushing, delinting, or other manufacturing process, and the product is subsequently shipped from such point, in carload or less-than-carload quantities, over respondent's line, respondent will make to the shipper at such manufacturing or mill point, through claim channels, an allowance determined in accordance with the provisions of the tariff, if the conditions specified therein are met. The principal conditions are that the cottonseed products must be shipped out-bound by way of the Columbus & Greenville within 1 year from the date of the in-

bound freight bill, at the rate from the mill point to final destination, and that the claim for refund must be filed within 15 months from the date of the out-bound shipment, supported by the original paid freight bill covering the in-bound movement, a copy of the out-bound bill of lading, and a certificate that the claim is bona fide.

There is no requirement that the in-bound shipment move to the mill point over respondent's line, either wholly or in part, the only provision in this respect being that the in-bound shipment move "via rail." Therefore, the tariff would apply even though the in-bound shipment moved entirely over the line of some other carrier to the mill point. No origins or destinations are specified in the tariff.

The refund provided by the tariff is the difference between the rate paid on the in-bound shipment of the cottonseed and the "factors" specified in the tariff, which factors range from 2.75 to 8.5 cents for in-bound distances of from 5 to 170 miles. For example, on a shipment of cottonseed over the Yazoo & Mississippi Valley from Coahoma, Miss., to Greenville, 87 miles, the in-bound rate would be the local rate of that carrier of 8.4 cents. The factor provided in respondent's tariff for that distance is 7 cents. The refund would be the difference between that factor and the local in-bound rate of 8.4 cents paid by the shipper, or 1.4 cents per 100 pounds, applied to the weight of the out-bound shipment, but not exceeding 93 percent of the weight of the in-bound shipment. The tariff is not applicable on Mississippi intrastate traffic. Respondent explained this was due to the fact that under the law of that State an intrastate tariff may not be made effective unless it is approved in advance by the Mississippi Public Service Commission, which commission declined to approve respondent's similar prior issue, I. C. C. No. 81. As respondent's line is wholly within the State of Mississippi, it is obvious that traffic moving exclusively over its line is intrastate in character. In order to be interstate in character, a shipment originating on respondent's line must subsequently move over some other line or lines.

Under cut-back tariffs maintained by the Frisco, the Mobile & Ohio, and the Yazoo & Mississippi Valley, the aggregate charges for the in-bound and out-bound movements are at present lower when the out-bound movement is over one of those lines than they are when the out-bound movement is over the Columbus & Greenville. Respondent contends, therefore, that the refunds contemplated by the suspended schedules are necessary to enable it to compete effectively for the out-bound traffic. Respondent's tariff is so constructed that the aggregate net amount payable by the shipper for the in-bound and out-bound movements would be

the same as the amount the shipper would pay if his traffic were handled both in and out of the manufacturing point by one of the trunk lines. Respondent shows, for example, that on a shipment of cottonseed from Coahoma over the Yazoo & Mississippi Valley to Greenville, processed there, and the product, cottonseed oil, shipped over the line of the same carrier and its connections to Cincinnati, Ohio, a representative destination, the aggregate of the rates would be 55 cents, composed of an in-bound cut-back rate of 7 cents to Greenville plus a joint rate of 48 cents from Greenville to Cincinnati. The Yazoo & Mississippi Valley would collect, at the time of the in-bound shipment, its local rate from Coahoma to Greenville of 8.4 cents, and after the movement of the out-bound shipment over its line and compliance with the other terms of its cut-back tariff, it would refund the difference between its local rate and its cut-back rate, or 1.4 cents. If the cottonseed oil were shipped from Greenville over respondent's line and its connections, the aggregate of the rates under respondent's suspended tariff would also be 55 cents, composed of the Yazoo & Mississippi Valley's in-bound local rate of 8.4 cents for the movement from Coahoma to Greenville, plus a joint rate of 48 cents for the movement from Greenville to Cincinnati, which latter rate would be reduced by the proposed allowance, 1.4 cents, to 46.6 cents.

Cut-back tariffs of the Frisco, the Mobile & Ohio, and the Yazoo & Mississippi Valley, which are virtually identical, differ from respondent's suspended "allowance" tariff in several important respects. Under each of the former both the in-bound and the out-bound movement must be over the line of the same carrier, the one publishing the arrangement. For example, the Frisco tariff applies on cottonseed originating at points which are on its line and moving to mill points which are on its line, but which may be served also by other lines, for cracking, crushing, delinting, or other process, and for reshipment beyond the mill point over the Frisco. The tariff provides that the rates named therein (called cut-back rates) must not be used in way-billing shipments, that all shipments must be waybilled at the local rate to the mill point, and that the freight charges will be collected at that rate upon delivery at the mill point. It further provides that if the out-bound shipment from the mill point is over the Frisco, the freight charges to the mill point will be reduced, through claim channels, to the basis of the lower cut-back rates named therein, on basis of a ratio of 100 pounds of cottonseed in-bound for each 98 pounds of products out-bound. If a shipment of cottonseed were to move over the Frisco to Columbus and the out-bound product over the Columbus & Greenville, or the Southern, or the Mobile & Ohio, the Frisco's cut-back

rates would not be applicable. Nor would they be applicable if the in-bound shipment moved into Columbus over any other line, even though the out-bound movement were over the Frisco. The tariffs of the other railroads in Mississippi, except the Columbus & Greenville, are similar to those of the Frisco.

Transit and similar arrangements, such as provided by these cut-back tariffs, are generally conditioned upon, or granted in consideration of, the obtaining of the out-bound haul of the product by the in-bound carrier to the transit point. Under respondent's suspended schedules, however, the refunds therein provided are made without regard to whether the in-bound shipment is over its line or over the line of any particular carrier, the only requirement being that the in-bound shipment move by rail. It is clear that respondent's tariff would apply whether the in-bound movement is over its line or over the line of any other rail carrier reaching the mill point. Prior to the publication of its tariff I. C. C. No. 81, respondent maintained tariffs providing for cut-back rates under conditions similar to those contained in the cut-back tariffs of the trunk lines. Its situation then was not essentially different from that of the other lines. Then, under its cut-back tariffs, the cut-back rates were applicable only when both the in-bound and the out-bound movements were over its line, and when this condition was not met there was no cut-back, the local in-bound rate originally collected being retained. This is also true of the cut-back tariffs of the trunk lines then and now in force. If, for example, an in-bound shipment to Greenville moved over respondent's line, the cut-back tariff of the Yazoo & Mississippi Valley would not apply, and if the out-bound shipment moved over the line of that carrier the aggregate charges would be higher than they would be if the out-bound shipment moved over respondent's line. Each of the other carriers is at a similar disadvantage since the cut-back tariff of each is inapplicable where the out-bound shipment is over a line other than that of the in-bound carrier. Respondent's tariff I. C. C. No. 81 for the first time provided for cut-backs, even though the in-bound movement was over another line. That tariff and its succeeding issue now under suspension are unique in this respect. Instead of placing itself on an equal basis with its competitors, respondent's present effective and suspended tariffs place it in a more favorable position than any of them, since the tariffs of none of them go so far as to grant a refund to the shipper on traffic moving into the mill over the line of another carrier.

Cut-back tariffs applicable to the movement of cottonseed and its products in Mississippi were first published by the trunk lines and by respondent in 1931 and were for the purpose of meeting truck competition. The cut-back rates then established were

soon found to be too high to meet truck competition effectively, and on February 1, 1932, and again on September 20, 1933, they were reduced. On August 1, 1934, the normal cottonseed rates were reduced to a basis only slightly higher than the cut-back rates, in a further effort to meet truck competition, and these rates, as subsequently increased 5 percent, are still in effect. Throughout the period since 1931 respondent has maintained the same basis of rates over its line as those in force on the trunk lines. Protestants point out that the cut-back rates are extremely low, averaging only about 8.5 percent of the first-class rates, whereas in the general cottonseed proceeding the Commission prescribed 18.5 percent of first class as reasonable, and that these low cut-back rates can be justified only in consideration of the in-bound carrier's obtaining the out-bound movement.

There has been a marked decline in respondent's cottonseed traffic during recent years. In 1928, 1929, and 1930 the out-bound movements of cottonseed products over its line totaled 92,819, 111,254, and 91,678 tons, respectively, averaging 95,250 tons, while the average for the 7 years 1932-1938 was 37,689 tons. It ascribes this decrease not to economic conditions, but to the existence of the trunk lines' cut-back tariffs. But there is no clear showing that this decrease was due solely to the existence of the trunk lines' cut-back tariffs, and nothing to indicate that their traffic increased. Those tariffs were not made effective until near the end of the year 1931 (November 2), yet respondent's out-bound cottonseed-products traffic declined in that year to 49,226 tons from 91,678 tons in the previous year. There is no showing whether in that year or in subsequent years the competing trunk lines' cottonseed-products traffic increased or decreased. For sooth that appears their traffic might have decreased in the same proportion as respondent's. Moreover, there has been a steady decline in the in-bound movement of cottonseed over respondent's line. That traffic, after increasing from 20,774 tons in 1928 to 26,801 tons in 1929, steadily declined until it reached the low figure of 8,949 tons in 1938. Respondent did not show how much of this traffic was lost because of truck competition. Further, there has been a substantial decline in the rail movement of cottonseed on all class I railroads in the southern region and in the United States since 1930. The tonnage in the southern region in 1930 was 1,407,778 tons and in the United States 2,599,872 tons, whereas in 1937 the tonnages were 582,916 in the southern region and 1,286,881 in the United States, or 41.4 percent and 48.7 percent, respectively, of the 1930 movement.

Comparatively little cottonseed is produced along respondent's line, and most of the in-bound cottonseed originates on and moves over the lines of other carriers, particularly the Illinois Central,

the Yazoo & Mississippi Valley, the Mobile & Ohio, and the Frisco. There appears to be a substantial in-bound movement by truck. Respondent's disadvantage appears to be primarily one of location. Respondent, however, has equal right with the trunk lines to compete, by lawful means, for the out-bound traffic. The out-bound cottonseed-products traffic is free traffic, and no particular carrier has any inherent right to it. As stated in Atchison, T. & S. F. Ry. Co. v. United States, 279 U. S. 768, there is no rule of law or practice which gives to a carrier the right to recapture traffic which it originates. The right of a carrier to compete for traffic, however, is conditioned upon the use of legal means to accomplish that purpose.

By their terms, the cut-back tariffs of the trunk lines reduce only their own in-bound local rates. The suspended tariff must be interpreted as affecting only the out-bound rate in instances where respondent has not participated in the in-bound haul. The effect of it, as to most of the considered traffic, is to reduce the lawfully published out-bound rate without the concurrence of other carriers participating in the out-bound haul.

Refunds contemplated by the suspended schedules, although denominated allowances, are not allowances within the meaning of the term "allowance" as used in section 15 (13) of the act, because the shippers or owners of the traffic do not perform any part of the transportation service.

The suspended schedules do not lawfully name or provide any legal rates whatsoever. Although the refunds vary with the distances the in-bound shipments move, respondent cannot lawfully name, or vary, the in-bound rate where the in-bound shipment moves over some other line, and the in-bound line does not concur in respondent's tariff. In order to make a lawful joint rate with other carriers, their concurrence is necessary under the Commission's tariff regulations, and under section 6 (4) of the act, which reads:

"The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence or concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties."

Joint rates on cottonseed products are in effect from origins on respondent's line to destinations reached by connecting carriers, and there is no question but that such joint rates are properly concurred in by all participating carriers. The Columbus & Greenville, acting alone, cannot reduce such joint rates.

In substance and effect, the suspended tariff attempts to do just this. It provides for certain refunds to the shipper, which if made would result in the traffic being transported from the mill point to a destination on another line at a net rate lower than the joint rate legally in effect and published in other tariffs. For example, the joint rate of 48 cents from Greenville to Cincinnati applies over the route formed by the Yazoo & Mississippi Valley, the Illinois Central, and the Southern Railway lines, by way of Memphis. It also applies over the route formed by respondent's line to Columbus and Southern Railway lines beyond; also over respondent's line to Columbus, the Frisco to Birmingham, and Southern Railway lines beyond. Under respondent's suspended tariff the shipper at Greenville, for instance, if he surrendered a Yazoo & Mississippi Valley freight bill covering an in-bound shipment from Coahoma, would obtain transportation from Greenville to Cincinnati, over either of the last-mentioned routes, at 46.6 cents, instead of at the joint rate of 48 cents, concurred in by respondent and the several other carriers participating in the out-bound movement. In other instances the lawfully applicable out-bound joint rates would be defeated by amounts ranging from 0.95 to 3.15 cents per 100 pounds.

Under the decision of the Supreme Court in *Central R. Co. of New Jersey v. United States*, 257 U. S. 247, a carrier may provide for a transit privilege on its line by its individual tariff and without the concurrence of other carriers. The Court held, at page 255:

"Under the rules of the Commission governing the making, filing and publishing of tariffs, privileges like creosoting in transit are treated as a matter local to the railroad on which the transit point is situated. Whether the privilege shall be granted or withheld is determined by the local carrier. If granted, the local carrier determines the conditions; and these are set forth in the local tariff. Although a joint through route with joint rates is established by concurrent action of several carriers, the transit privilege may thus be granted by a carrier without the consent of and without consulting, connecting carriers. And the whole revenue received for use of the privilege is retained by the local carrier."

Based on the foregoing decision, the Columbus & Greenville would have the right to provide for a transit arrangement on its line. It could provide for the stopping of the commodity at the transit point and the subsequent shipment at the lawfully established joint through rate from original point of shipment to final destination, without the concurrences of its connections, but it could not establish the joint rate itself without such concurrences.

In several instances the Commission has approved varying proportional rates applicable over a line serving a transit point, but not reaching the origin territory, where the purpose was to equal the balances of the through rates applicable under transit arrangements of carriers originating the traffic and with lines both into and out of the transit point. Export Rates on Grain and Grain Products, 31 I. C. C.

Section 6 (1) of the act provides that every common carrier subject thereto shall file with the Commission and print and keep open to public inspection schedules showing all the rates for transportation not only between "different points on its own route" but also "between points on its own route and points on the route of any other carrier by railroad, * * * when a through route and joint rate have been established." Section 6 (4) quoted above, requires concurrences of all participating carriers in joint tariffs. Section 6 (7) provides, among other things, that no carrier shall "charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates * * * which are specified in the tariff filed and in effect at the time", and, further, that no carrier shall "refund or remit in any manner or by any device any portion of the rates * * * so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs." The word "tariffs" as used in section 6 (7) must be interpreted as meaning joint tariffs, when considering joint rates. Such an interpretation is necessary to the proper administration and enforcement of the act, in order to prevent a single carrier, party to a joint rate, from varying such joint rate by publication of a refund, as in the present proceeding, or possibly by the publication of a different rate, in its individual tariff.

In our opinion the allowances proposed by respondent would constitute a "device" by means of which it would refund a portion of the rates specified in joint tariffs now lawfully on file with the Commission. The fact that the refund would be made out of respondent's division of the joint rate would be immaterial. Such a refund would be, essentially, a rebate, whereby the property would be transported from the mill point to the destination on another line at a lower rate than that named in the joint tariff published and filed by the several carriers participating in the movement and lawfully in effect. The rates in effect generally on this traffic in the Southeast are those prescribed by the Commission in Cottonseed, Its Products, and Related Articles, 188 I. C. C. 605, and subsequent reports, subjected

to later general increases authorized in the light of the need of the carriers for additional revenue. In some instances they have subsequently been reduced. Respondent's suspended tariff, granting an alleged allowance to the shipper notwithstanding that he performs no part of the transportation service, as the result of which he would obtain the out-bound transportation at less than the rates lawfully in effect would constitute an unreasonable practice, in violation of section 1 (6) and other provisions of the Interstate Commerce Act.

If respondent's suspended issue could be found lawful, it would follow that similar tariffs published by the trunk lines serving the mill points would likewise be lawful. The result would be, if such action were taken, that the advantage gained by respondent from its tariff would be substantially offset by similar action of the competing lines, and all the carriers would then transport out-bound traffic at lower rates than those now lawfully in effect.

The cut-back rates and tariffs of the trunk lines are not here in issue, and nothing in this report is to be construed as either approving or condemning them.

We find that, if permitted to become effective, the proposed allowances, to the extent that they apply where the traffic has been moved to the mill points by rail carriers other than respondent, would be in violation of section 1 (6), section 6 (4), and section 6 (7) of the Interstate Commerce Act and are therefore unlawful. The suspended schedules, so far as they pertain to traffic originated by respondent and moved to the mill point over its line, although not found unlawful on this record, are defective in their present form. The tariff is so constructed that the unlawful provisions thereof cannot be segregated from those which might otherwise be found lawful. It must therefore be condemned in its entirety. An order will be entered requiring cancellation of the suspended schedules.

As respondent's tariff I. C. C. No. 81 contains substantially the same provisions as the suspended schedules so far as traffic moved into the mill points by other lines is concerned, a provision will be included in the order citing respondent to show cause why its I. C. C. No. 81 should not be amended so as to eliminate such provisions.

28 In United States District Court

No. 161

COLUMBUS & GREENVILLE RAILWAY COMPANY

v.

THE UNITED STATES OF AMERICA, ET AL.

THREE JUDGE COURT

Before HOLMES, Circuit Judge, and DAWKINS and MIZE, District Judges.

Opinion

July 31, 1942

Mize, District Judge.

The validity of the order of the Interstate Commerce Commission requiring the plaintiff, C. & G. Railway Company, to cancel certain provisions of a cut-back rate tariff is posed for determination by this suit. The Commission found plaintiff's freight tariff 2-B I. C. C. No. 81 to be in violation of sections 1 (6), 6 (4), and 6 (7) of the Interstate Commerce Act. The basis for the Commission's action is contained in two reports, being I. & S. Docket No. 4599, 238 I. C. C., 309, and No. 28590 decided January 3, 1942. The last mentioned report being the one that is particularly in controversy, the record and report of the former being made part of the record in the latter.

The facts in the case are not in dispute. The tariff provisions which the Commission has condemned, provide that when cottonseed is transported by a railroad other than the C. & G. Railway Company to a mill point and is there processed and its products subsequently reshipped over the line of C. & G. Railway Co., the C. & G. Railway Co. will make a prescribed refund to the shipper, based upon the inbound shipment and the length of movement from the origin to milling point. This provision is contained in plaintiff's tariff No. 81, being Item 5 thereof, and which provides that it shall be applicable on cottonseed in carloads from stations on the C. & G. Railway and on cottonseed from stations on connecting lines via such lines to mill points on the C. & G. Railway where in both cases subsequent shipment of the product is 29 made from such mill points via the C. & G. Railway. Item 40 of the tariff provides for a scale of rates based upon the distance of the inbound movement.

The effect of this tariff is that the schedule of rates prescribed is used as a measure for making refunds on the subsequent reshipments of the product out of the mill point and is not

applied in the first instance upon the inbound movements. On inbound movement a local rate is charged and collected and subsequently upon shipment out of the mill point over the C. & G. Railway the C. & G. Railway Company refunds to the shipper the difference between the local rate inbound and the rate prescribed in tariff No. 81, depending upon the length of the inbound movement. This tariff is applied on all inbound movements by rail, whether such transportation is performed by the C. & G. Railway Company or any other carrier serving the mill point. The line of the C. & G. Railway Co. lies wholly within the State of Mississippi. Movement of cottonseed products from any of the mill points on its lines to points outside of the State of Mississippi involves movement over the line of the C. & G. Railway and the connecting carrier. The C. & G. Railway Co. has joint rates on cottonseed products in effect from origin on its line to destination reached by connecting carriers, and such joint rates are properly concurred in by all participating carriers.

The report of the Commission shows that the investigation was instituted upon its own motion concerning the lawfulness of the rates. The St. Louis-San Francisco Railway Co. and the I. C. Railroad Co., competitors of the C. & G. Railway Co., intervened in the hearing. Each of these interveners has a tariff substantially identical with the tariff of plaintiff, except that the tariff of each of these provides for a cut-back only upon cottonseed products processed from cottonseed originating inbound on the lines of such carrier. The rates for the inbound movements of cottonseed are published in tariffs local or joint governing the movement to the mill point. The rates on 30 cottonseed products from the mill point are published in tariffs local or joint governing the movement from the mill point.

It is the contention of the plaintiff that the rate provided in the tariff is reasonable, just, not discriminatory, and that it is necessary in order to meet the competition of the trunk line carriers, and that the amount of freight paid by the shipper when moving outbound products over plaintiff's line is identically the same as it would be if the products moved out over its competitors' lines; that unless this tariff is permitted to stand, plaintiff, of course, is unable to meet the rate in effect by its competitors; that the processed products of the cottonseed became free freight at the mill points and the plaintiff is entitled to compete for free freight upon substantially equal terms with its competitors. That tariff No. 81 is not a joint tariff.

Interveners object to the tariff upon the theory that it attempts to name rates for account of their lines without their concurrence. That (1) their tariffs apply solely on shipments of

cottonseed which they transport over their lines to the mill point; (2) to permit plaintiff's tariff to remain would in effect permit it to charge a less rate than that shown by its joint tariff and without concurrence of those carriers concurring in the joint rate.

The testimony shows without dispute that this tariff is profitable to plaintiff; that by its provisions and enforcement none of the capital investment of plaintiff is impaired; that the connecting carriers receive the entire proceeds from the rates as published applicable to them; and that plaintiff absorbs the entire amount of this cut-back. The testimony shows too that it does not vary in any respect whatsoever from the published tariff.

The tariff sets up a procedure by which the shippers of the outbound products are required to file through the claim channels of plaintiff the original bill of lading upon the inbound cottonseed within fifteen months and that then, in accordance with this tariff, the refund is made. The Commission

31 did not find that the tariff was unreasonable, unjust or discriminatory, but determined that the form and manner in which the tariff is published does not conform to the requirements of Section 6 (4) and 6(7) of the Act, and that it was unlawful by virtue of Section 1 (6) of the Act. The Commission was without power to declare the tariff unlawful unless it found from the evidence as a fact that the tariff was in violation of 6 (4) or 6 (7) or otherwise violated 1 (6).

The court is without power to review the Commission's conclusions of fact. *Interstate Commerce Commission v. Delaware, etc. Railway*, 220 U. S. 235. The legal effect of evidence, however, is a question of law, and when there is no dispute in the facts, the matter is then to be determined by the court as a matter of law. *Interstate Commerce Commission v. L. & N. Railway Co.*, 227 U. S. 88; *U. S. v. C. M., St. Paul & Pacific Ry. et al.*, 294 U. S. 499. The carrier retains the primary right to make rates but if after a hearing they are shown to be unreasonable, it is then the duty of the Commission to set them aside and require the substitution of just for unjust rates. *Interstate Commerce Commission v. L. & N.*, *supra*.

The purposes of the Interstate Commerce Act are clearly stated in *Interstate Commerce Commission v. B. & O. Railway Co.*, 145 U. S. 265. Among others mentioned, one of the purposes was to prohibit unjust discrimination in the rendition of like service under similar circumstances and conditions, and to prevent undue or unreasonable preference to persons or localities, but that it was not designed to prevent competition between different roads, and that it was not all discriminations or preferences that fall within the inhibition of the statute, only such as are unjust or unreasonable.

The freight that was sought to be captured by plaintiff's tariff was free freight and plaintiff, by any lawful means, had the right to endeavor to receive it. Atchison T. & S. F. Ry. Co. v. U. S.,

279 U. S. 768. Under this authority the competitors of plaintiff had no more right to recapture the freight because they brought the cottonseed in than does plaintiff have the equal right to compete for it upon equal terms. The shipper is entitled to a free choice of carriers upon substantially the same terms. In T. & P. Ry. Co. v. Interstate Commerce Commission, 169 U. S. 197, the court stated: "The traffic thus secured was remunerative to the Railway Company and was obviously beneficial to the consumers at the place of destination, who were those enabled to get their goods at lower rates than would prevail if this custom of through rates were destroyed. * * * The Commission did not charge, or find that the local rates charged by the defendant company were unreasonable. * * * The very terms of the statute that charges must be reasonable, that discrimination must not be unjust, or that preference or advantage to any particular person, firm, corporation or locality must not be undue or unreasonable necessarily implied that strict uniformity is not to be enforced; but that all circumstances and conditions which reasonable men would regard as affecting the welfare of the carrying companies, and of the producers, shippers, and consumers, should be considered by a tribunal appointed to carry into effect and enforce the provisions of the act." Carriers have a right to initiate rates as long as they do not violate the terms of the Act. The Act itself leaves common carriers as they were at the common law. They make special rates looking to the increase of their business, as long as they publish and file their rates and otherwise conform to the Act of Congress. Interstate Commerce Commission v. C. G. M. Ry. Co., et al., 209 U. S. 108; U. S., et al v. I. C. Ry. Co., et al., 263 U. S. 515; U. S., et al. v. C. M., St. Paul & Pacific Ry. Co., et al., 294 U. S. 499. The plaintiff, by publishing the condemned tariff, was not seeking any advantage. It was only seeking equality in order that the shipper might have a choice of routes to be determined by him upon a substantial equality. His good

faith in this respect was not questioned. His motive was 33 pure. Without this tariff his right to compete for this outbound freight is destroyed. "The theory of the Act is that the carriers in initiating rates may adjust them to competitive conditions and that such action does not amount to undue discrimination." T. & P. v. U. S., 289 U. S. 627. The report of the Commission states: "The purpose of making the refund is to enable it to compete for traffic that might otherwise move outbound over the lines that originated the seed. The originating

lines held themselves out to cut-back their local inbound rates on the seed which they originate in order to induce the shipper to move outbound products over their lines. If it were not for the cut-back rates on the connecting lines, there would be no necessity for respondent's tariff, as the inbound shipments move from origin points to the mills at the local rates under separate bills of lading." The report states further that the refunds or cut-back are exactly the same in amount as those of the other carriers serving the mill points. The report further states that the legality of the interveners' tariffs is not in issue.

We think the legality of the interveners' tariffs, while not necessarily in issue, is very material to a correct solution of the validity of the plaintiff's tariffs. The legality of interveners' tariffs is not questioned by anyone and it is assumed that they are valid until declared invalid. They have been in existence since 1931 and were adopted by the competitors for the purpose of meeting truck competition, as is shown by the report of the Commission, Division 3, in Docket No. 4599, I. & S. D. No. 459.

A clear analysis of plaintiff's tariff demonstrates that it in no wise affects the amount of the rates paid for the inbound service to the mill point. It does not affect the outbound rate of connecting carriers. But the refund is absorbed entirely by the plaintiff. There is no other carrier a party to plaintiff's condemned tariff. The tariff, in substance, is essentially the same as that of the intervening trunk lines, and if it were not 34 for those tariffs of the intervening trunk lines, then there would be no necessity for the plaintiff's tariff, and probably it never would have been promulgated.

Shippers pay the full amount of freight as published on the inbound movements over any of the roads. Likewise on the outbound movements the full amount of freight is paid and by the terms of the tariff is in no way affected. The effect of the condemned tariff is that when the processed products are shipped over C. & G.'s road, it will absorb a part of the inbound freight charges as published by its tariff, upon compliance with the procedure therein contained. The plaintiff is therefore entitled to the relief sought.

Appearances: Forrest B. Jackson, Jackson, Mississippi, R. C. Stovall, Columbus, Mississippi, Z. P. Hawkins, Columbus, Mississippi, Counsel for Columbus & Greenville Ry. Co.; Daniel H. Kunkel, Office of Chief Counsel Interstate Commerce Commission, Washington, D. C., Counsel for Interstate Commerce Commission; Robert L. Pierce, Special Attorney, Department of Justice, Washington, D. C., Counsel for United States of America; John E. McCullough, 1025 Frisco Building, St. Louis, Missouri, Counsel for

St. Louis-San Fran. Ry. Co.; Erle J. Zoll, Jr., 135 E. 11th Place,
Chicago, Illinois, Counsel for Illinois Central R. R. Co.

GULFPORT, MISSISSIPPI, July 31, 1942.

35 In District Court of the United States for the Northern
District of Mississippi, Eastern (Aberdeen) Division

Civil Action 161

COLUMBUS & GREENVILLE RAILWAY COMPANY, PLAINTIFF

v.

UNITED STATES OF AMERICA, ET AL., DEFENDANTS

Final decree

August 17, 1942

This cause came on this day for final hearing before the Honorable Edwin R. Holmes, a judge of the United States Circuit Court of Appeals for the Fifth Circuit, the Honorable Ben C. Dawkins, United States District Judge for the Western District of the State of Louisiana, and the Honorable Sidney C. Mize, United States District Judge for the Southern District of the State of Mississippi, and designated as a District Judge for the Northern District of Mississippi, composing a Three-Judge Court under the provisions of the Urgent Deficiencies Act, and particularly under the provisions of Title 28 U. S. C. A., Section 47, said Court having been heretofore organized by a precedent order herein heretofore entered, and said court having heretofore herein heard said matter on application for temporary restraining order and interlocutory injunction, and having heretofore ordered and directed the issuance of an interlocutory injunction against the defendants named in the original complaint herein, and said cause having now come on for final hearing filed by the Columbus & Greenville Railway Company, a railway common carrier corporation organized and existing under and by virtue of the laws of the State of Mississippi, with its domicile at Columbus, within the Northern District of the State of Mississippi, and upon legal process duly and legally served, as required by law, upon the defendants, the United States of America, the Interstate Commerce Commission, the Illinois Central Railroad Company and the St. Louis-San Francisco Railway Company, Debtor (J. M. Kurn and John G. Lonsdale, Trustees), and upon the answers of each of said defendants herein filed, and

36 upon final hearing, the Court having heard oral and documentary evidence in open court, all of the parties being present and represented by counsel, and the matter having been submitted to the Court upon the pleadings and upon oral and documentary evidence, and briefs for all the parties, and the court having now fully and finally considered and heard all of said matters, being fully advised in the premises, is of the opinion that the permanent injunction prayed for by the plaintiff should be, and the same is hereby granted, allowed and ordered.

It is, therefore, ordered, adjudged and decreed that the temporary and interlocutory injunction heretofore ordered, issued herein be, and the same is hereby made permanent.

It is further ordered, adjudged and decreed that the order of the Interstate Commerce Commission set forth in Exhibit "A" to the original complaint herein, and being that order of said Commission dated in Washington, District of Columbia, on January 3, 1942, in Interstate Commerce Commission Docket No. 28590 (Cottonseed Allowances of Columbus & Greenville Railway Company), effective February 26, 1942, and later extended as to effective date on timely application of plaintiff to April 28, 1942, be, and the same is hereby permanently restrained and enjoined from further effect and operation, and the United States of America, the Interstate Commerce Commission, the Illinois Central Railroad Company, and the St. Louis-San Francisco Railway Company (J. M. Kurn and John G. Lonsdale, Trustees), their officers, agents, servants, employees, attorneys, subsidiaries, affiliates, associates and all other persons whatsoever, are here and now permanently and forever restrained and enjoined from taking any other or further action under, or making any other or further attempt to enforce the provisions and requirements of said order in said Interstate Commerce Commission Docket No. 28590.

37 It is further adjudged, ordered and decreed that the interveners, I. C. Railroad Company and the trustees of the St. Louis & San Francisco Ry. Co. be taxed with costs herein, for which execution may issue, and all other proper and necessary writs are allowed.

Ordered, adjudged, and decreed, this the 17th day of August A. D. 1942.

EDWIN R. HOLMES,
United States Circuit Judge.

BEN C. DAWKINS,
United States District Judge.

S. C. MURKIN,
United States District Judge.

- 38 In District Court of the United States for the Northern District of Mississippi, Eastern Division

[Title omitted.]

Petition for appeal

Filed Oct. 14, 1942

The Interstate Commerce Commission, J. M. Kurn and John G. Lonsdale, Trustees of the St. Louis-San Francisco Railway Company, feeling themselves aggrieved by the final decree of the District Court for the Northern District of Mississippi, Eastern Division, entered August 17, 1942, pray an appeal from said decree to the Supreme Court of the United States.

The particulars wherein said defendants consider the decree erroneous are set forth in the assignment of errors accompanying this petition, to which reference is hereby made.

Said defendants pray that a transcript of the record, proceedings and papers upon which said decree was made and entered, duly authenticated, be transmitted forthwith to the Supreme Court of the United States.

Dated October 14, 1942.

(s) DANIEL W. KNOWLTON,
Chief Counsel.

(s) DANIEL H. KUNKEL,

(s) JOHN E. McCULLOUGH,

*For J. M. Kurn and John G. Lonsdale,
Trustees of the St. Louis-San Francisco Railway Company.*

(s) ERNEST J. ZOLL, Jr.,

For Illinois Central Railroad Company.

[File endorsement omitted.]

- 40 In District Court of the United States for the Northern District of Mississippi, Eastern Division

[Title omitted.]

Assignment of errors

Filed Oct. 15, 1942

Come now the Interstate Commerce Commission, J. M. Kurn and John G. Lonsdale, Trustees of the St. Louis-San Francisco Railway Company and the Illinois Central Railroad Company, defendants herein, and file the following assignment of errors upon which they shall rely in the prosecution of the appeal to

the Supreme Court of the United States herewith petitioned for in said cause for the decree of the District Court of the United States for the Northern District of Mississippi, Eastern Division, entered on the 17th day of August 1942.

1. The Court erred in finding that Plaintiff, by publishing the condemned tariff, was not seeking any advantage but was only seeking equality.

2. The Court erred in finding that without this tariff plaintiff's right to compete for this outbound freight is destroyed.

3. The Court erred in holding that interveners' tariffs are very material to a correct solution of the validity of the plaintiff's tariff.

4. The Court erred in holding that plaintiff's tariff does not effect the outbound rate of connecting carriers.

5. The Court erred in finding that plaintiff's tariff is
41 essentially the same as those of the intervening lines.

6. The Court erred in holding that the outbound freight rate is in no way affected by the terms of plaintiff's tariff.

7. The Court erred in holding that plaintiff is entitled to the relief sought.

8. The Court, in sustaining the tariff in question, erred in substituting its judgment for that of the Interstate Commerce Commission on administrative matters which have been placed by Congress within the jurisdiction of the Interstate Commerce Commission.

9. The Court erred in failing to sustain the order of the Interstate Commerce Commission.

10. The Court erred in failing to dismiss the suit for want of equity.

11. The Court erred in entering the interlocutory order of April 24, 1942, temporarily restraining the enforcement of the order of the Commission.

12. The Court erred in making and entering the final decree of August 17, 1942, permanently enjoining, annulling and setting aside the order of the Interstate Commerce Commission.

Dated October 14, 1942.

(s) DANIEL W. KNOWLTON,

Chief Counsel.

(s) DANIEL H. KUNKEL,

Attorney for Interstate Commerce Commission.

(s) JOHN E. McCULLOUGH,

For J. M. Kurn and John G. Lonsdale,

Trustees of the St. Louis-San Francisco Railway Company.

(s) EKLE P. ZOLL, Jr.,

For Illinois Central Railroad Company.

[File endorsement omitted.]

In United States District Court

[Title omitted.]

Notice of appeal

Filed Oct. 15, 1942

To the Attorney General for the State of Mississippi:

You are hereby notified that the District Court of the United States for the Northern District of Mississippi, Eastern Division, on October 14, 1942, filed and entered an order allowing an appeal by the Interstate Commerce Commission, J. M. Kurn and John G. Lonsdale, Trustees, St. Louis-San Francisco Railway Company, and the Illinois Central Railway Company, to the Supreme Court of the United States from a decree filed and entered on the 17th day of August 1942, in the above-entitled cause, and that the citation signed by such court on October 14, 1942, in connection with the order allowing such appeal, is made returnable within 40 days from the date of the signing of such citation.

Attached hereto are copies of each of the following documents: the citation referred to above, the petition for and the order allowing said appeal, defendant's jurisdictional statement pursuant to Rule 12 of the Revised Rules of the Supreme Court of the United States, and the statement required to be served on appellees by said Rule 12.

This notice is given to you pursuant to the provisions of U. S. Code, Title 28, Sec. 47a, Act of March 3, 1911, c. 231, Sec. 43 210, 36 Stat. 1150, as amended by the Urgent Deficiencies Act of October 22, 1918, c. 32, 38 Stat. 219, 220.

Dated October 14, 1942.

(s) DANIEL W. KNOWLTON,
Chief Counsel.(s) DANIEL H. KUNKEL,
*Attorney.**For Interstate Commerce Commission.*(s) JOHN E. McCULLOUGH,
For St. Louis-San Francisco Ry. Co.(s) ERLE J. ZOLL, JR.,
*For Illinois Central Railroad Co.*Received a copy of the foregoing notice this 14 day of October,
A. D. 1942.(s) W. D. CONN, JR.,
*Asst. Atty. Gen. for Attorney General for the
State of Mississippi.*

[File endorsement omitted.]

- 44 In District Court of The United States for the Northern District of Mississippi, Eastern Division

[Title omitted.]

Order allowing appeal

Filed October 14, 1942

In the above-entitled causes, the Interstate Commerce Commission, J. M. Kurn and John G. Lonsdale, Trustees, St. Louis-San Francisco Railway Company, and the Illinois Central Railroad Company, having made and filed their petition praying for an appeal to the Supreme Court of the United States from the final decree of this Court in this cause, entered August 17, 1942, and having also made and filed an assignment of errors and a statement of jurisdiction, and having in all respects conformed to the statutes and rules of Court in such case made and provided, it is

Ordered and decreed that the appeal be, and the same is hereby allowed as prayed for, and it is further

Ordered that petitioners, other than the United States of America and the Interstate Commerce Commission, give bond in the sum of \$250.00 as a cost bond.

Dated October 14, 1942.

(s) S. C. Mizra,
United States District Judge.

- 45 [Citation in usual form showing service on Jackson, Young & Friend omitted in printing.]

- 57 In District Court of the United States for the Northern District of Mississippi, Eastern Division

[Title omitted.]

Motion for order directing clerk to transmit original exhibits in lieu of copies

And now comes Interstate Commerce Commission, Illinois Central Railroad Company and John M. Kurn and John G. Lonsdale, Trustees of the St. Louis-San Francisco Railway Company, defendants appellant, and moves the court for an order directing the Clerk of the court to transmit to the United States Supreme Court the record before the Interstate Commerce Commission in

Docket 28590 and I. & S. 4899, as introduced in evidence in the trial of this cause, in lieu of copies thereof.

DANIEL W. KNOWLTON,

DANIEL H. KUNKEL,

For Interstate Commerce Commission.

JOHN E. McCULLOUGH,

For J. M. Kern and John G. Lonsdale,

Trustees of the St. Louis-San Francisco

Railway Company, Debtor.

ERLE J. ZOLL, JR.,

For Illinois Central Railroad Company.

58 November --, 1942, Columbus and Greenville Railway Company, plaintiff appellee, consents to the entry of the order sought in the above motion.

FREDERICK V. JACKSON,

R. C. STOVALL,

For Columbus and Greenville Railway Company.

Order of court

Upon consideration of the within motion and it appearing that the appellee consents to the entry of the order sought by said motion,

It is ordered, that the Clerk of court transmit to the United States Supreme Court the record before the Interstate Commerce Commission in Docket 28590 and I. & S. 4899, as introduced in the trial of this cause, in lieu of the copies thereof.

By the Court.

SIDNEY C. MIZE,
U. S. District Judge.

Dated January 2, 1943.

62 In United States District Court

[File endorsement omitted.]

[Title omitted.]

Stipulation for transcript of record

Filed Dec. 4, 1942

Under authority of Rule 10 of the Revised Rules of the Supreme Court counsel for appellants and counsel for appellee hereby stipulate and agree that the transcript of the record in the above-entitled cause to be transmitted by the clerk of this court to and filed in

the Supreme Court of the United States, pursuant to an appeal allowed, shall include the following, to-wit:

1. Original complaint and exhibits annexed thereto.
2. Answer of Interstate Commerce Commission.
3. Joint answer of defendant railroad companies.
4. Answer of United States.
5. Motion of defendant railroad companies to amend answer.
6. Order organizing three-judge court.
7. Testimony and exhibits before the Interstate Commerce Commission in Docket 28590, Cottonseed Allowances of Columbus and Greenville Railway Company.
8. Testimony and exhibits before the Interstate Commerce Commission in Investigation and Suspension Docket 4599, Allowances on Cottonseed at Columbus and Greenville Railway Points.
- 8½ Transcript of stipulation and agreement with reference to the record before the Three-Judge Court.
9. Report of Interstate Commerce of May 3, 1940, in Investigation and Suspension Docket 4599.
10. Opinion of Court below and final decree.
11. Petition for Appeal.
12. Assignment of Errors.
13. Notice of Appeal and acknowledgement of service.
14. Order allowing appeal.
- 63 15. Citation in appeal.
16. Notice under Rule 12.
17. Motion and order for transmitting original records and exhibits before the Interstate Commerce Commission in Docket 28590 and Investigation and Suspension Docket 4599.
18. Motion and order enlarging time for docketing case in Supreme Court and filing record therein.
19. This stipulation.

(s) DANIEL W. KNOWLTON.

(s) DANIEL H. KUNKEL,

For Interstate Commerce Commission.

(s) JOHN E. McCULLOUGH,

For J. M. Kurn and John G. Lonsdale,

Trustees of the St. Louis-San Francisco Railway Company,
Debtor.

(s) EMIL J. ZOLL, Jr.,

For Illinois Central Railroad Co.

(s) R. C. STOVALL,

(s) FORREST B. JACKSON,

For Columbus and Greenville Railway Company,

Appellee.

64 [Clerk's certificate to foregoing transcript omitted in printing.]

65

In Supreme Court of the United States

[File endorsement omitted.]

[Title omitted.]

Statement of points to be relied upon and stipulation as to record to be printed

Filed Feb. 6, 1943

The appellants in the above entitled cause for their statement of points to be relied upon adopt their assignment of errors.

Appellees further state that the entire record in this cause, as filed in this Court, is necessary for consideration of the points relied upon, and the transcript of record as transmitted by the Clerk of the District Court should be printed by the Clerk of this Court excepting those parts specified in Stipulation Re Printing of Record filed in this Court.

DANIEL W. KNOWLTON,
Chief Counsel.
 DANIEL H. KUNKEL,
Attorney.

*For Interstate Commerce Commission, for J. M. Kurn
 and John G. Lonsdale, Trustees of the St. Louis-San
 Francisco Railway Company, for Illinois Central
 Railroad Company, Appellants.*

66 Copies of the within statement were mailed to Mr. Forrest B. Jackson, Attorney, Lampton Building, Jackson, Mississippi, and Mr. R. C. Stovall, General Counsel, Columbus and Greenville Railway Company, Columbus, Mississippi, Counsel for Appellee herein, this 5th day of February 1943.

DANIEL H. KUNKEL,
Attorney.

[File endorsement omitted.]

67

In Supreme Court of the United States

Stipulation for the printing of the record

Filed Feb. 10, 1943

It is hereby stipulated by and between counsel for appellants and counsel for appellee, in lieu of their respective designations of the parts of the record considered by them necessary for the consideration of the points upon which they will rely, that the printed record before the United States Supreme Court in this cause shall consist of the following items:

1. The original complaint and exhibits annexed thereto.
2. Answer of the Interstate Commerce Commission.

3. Joint answer of defendant railroad companies.
 4. The report of the Interstate Commerce Commission in I. & S. Docket 4599, dated May 3, 1940.
 5. Opinion of the court below and final decree.
 6. Petition for appeal.
 7. Assignment of errors.
 8. Order allowing appeal.
- 68 9. Citation in appeal.
10. Notice of appeal.
11. Praecept for transcript of record.
12. Notice under Rule 12.
13. Motion and order for transmitting original exhibits in lieu of copies.
14. Statement of points to be relied upon.
15. This stipulation.

It is further stipulated that the record before the Interstate Commerce Commission in Docket No. 28590 and I. & S. 4599, introduced in evidence in the court below, shall not be printed as part of the record in this cause, but shall be retained as part of said record and may be referred to by the court and by counsel for the parties in their briefs and argument in this cause.

FORREST B. JACKSON,

For Columbus and Greenville Railway Company.

DANIEL W. KNOWLTON,

DANIEL H. KUNKEL,

For Interstate Commerce Commission.

JOHN E. McCULLOUGH,

For J. M. Kurn and John G. Lonsdale,

*Trustees of the St. Louis-San
Francisco Railway Company, Debtor.*

EMILE J. ZOLL, Jr.,

For Illinois Central Railroad Co.

SUPREME COURT OF THE UNITED STATES

No. 628, October Term, 1942

Order noting probable jurisdiction

February 1, 1943

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

[Endorsement on cover:] Enter Daniel W. Knowlton. File No. 47,129. D. C. U. S., N. Mississippi. Term No. 628. The Interstate Commerce Commission, J. M. Kurn and John G. Lonsdale, Trustees, St. Louis-San Francisco Railway Company, et al., Appellants, vs. Columbus and Greenville Railway Company. Filed January 5, 1943. Term No. 628 O. T. 1942.